

EXHIBIT A



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March 16, 2023

Via E-mail

Alex Spiro, Esq.
Quinn Emanuel Urquhart & Sullivan, LLP
51 Madison Avenue
New York, NY 10010
alexsprio@quinnemanuel.com

Re: Demand for Preservation of Documents

Dear Mr. Spiro:

We write on behalf of JPMorgan Chase Bank, N.A. (“JPMC”) in response to your letter, dated March 13, 2023 (the “March 13 Letter”). As explained below, the March 13 Letter does not allay the concerns JPMC expressed in its letter dated February 14, 2023 (the “February 14 Letter”).

As a preliminary matter, it is concerning that it took Ms. Javice over 30 days to respond to JPMC’s letter, given that the March 13 Letter contains only conclusory assertions. More critically, however, the March 13 Letter fails to address a number of issues raised by JPMC.

First, Ms. Javice has provided no information whatsoever regarding Chariot X Holdings, LLC, the Nevada shell company to which Ms. Javice has transferred a large portion of the Merger Proceeds.¹ Your letter incorrectly asserts that Ms. Javice transferred her assets because JPMC terminated its banking relationship with Ms. Javice. Not so. The questionable transfers to Chariot X Holdings occurred between September and December 2022, long before JPMC took any action with respect to its banking relationship with Ms. Javice. Moreover, if Ms. Javice has simply transferred her assets to accounts in her name at another reputable banking institution, JPMC would not have the same concerns. What Ms. Javice did, however, was establish a Nevada limited liability company with no apparent business purpose and then transfer nearly \$9 million dollars to that entity, directly undermining your assertion that her transfers do not suggest misconduct or an attempt to shield assets from litigation recovery. Further amplifying JPMC’s concerns is that the transfers to Chariot X Holdings were to Signature Bank, which the FDIC has since seized.

¹ Capitalized terms not defined in this letter shall have the meaning attributed to them in the February 14 Letter.

March 16, 2023
Alex Spiro, Esq.
Page 2

Ms. Javice's behavior raises red flags about fraudulent conveyances to Chariot X Holdings that are not addressed in the March 13 Letter. Nor does the March 13 Letter provide any of the representations that JPMC requested. *See* Feb. 14 Letter at 2-3 (listing items 1-5).²

Second, the conclusory assertion that "Ms. Javice is aware of, has complied with, and will continue to comply with the ongoing duty to preserve, including with respect to data from her Twitter account" fails to address the fact that Ms. Javice deactivated her Twitter account, risking destruction of relevant evidence, and only very recently restored it. The March 13 Letter does not represent that no data was lost in the process of deactivating and restoring the Twitter account.

Third, your response regarding Ms. Javice's access to Frank's Systems and Applications is incomplete. It is irrelevant whether Ms. Javice was "the administrative [or] system owner" of Frank's Applications and Systems. If Ms. Javice has in her possession, custody, or control any passwords or other credentials to those Applications and Systems, she must return them to JPMC. In addition, the March 13 Letter ignores the issue of two-factor authentication. Frank's Dropbox account, for example, is tied to Ms. Javice's email and/or phone number. JPMC does not have the username and password to that account and cannot reset that password because the account is controlled by Ms. Javice.

In light of the foregoing, JPMC intends to make a motion to request a partial lifting of the discovery stay imposed by the Private Securities Litigation Reform Act of 1995 ("Reform Act"). In particular, JPMC will seek discovery concerning Ms. Javice's asset transfers as well as her preservation of social media and possession of JPMC property. In an effort to avoid motion practice, please confirm whether Ms. Javice is willing to voluntarily provide this discovery.

As required by the local rules, our Delaware counsel will be contacting Ms. Javice's to meet and confer regarding JPMC's motion.

Sincerely,



William M. Regan

² Your assertion that JPMC has "improperly abused its banking relationship with Ms. Javice" has no basis in law or fact. Financial institutions are permitted to review transactions that occur in a depositor's accounts, and applicable privacy policies allow JPMC to use that information to enforce or defend legal rights and share that information with third parties to protect against suspected fraud or protect JPMC's rights. JPMC has in no way "harassed" Ms. Javice.

EXHIBIT B

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Lovells**

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April 6, 2023

Via E-mail

Alex Spiro, Esq.
Quinn Emanuel Urquhart & Sullivan, LLP
51 Madison Avenue
New York, NY 10010
alexsprio@quinnemanuel.com

Re: Preservation of Documents

Dear Mr. Spiro:

We write on behalf of JPMorgan Chase Bank, N.A. (“JPMC”) in response to the requests in your January 18, 2023, March 13, 2023, and March 20, 2023 letters regarding the preservation of certain information (the “Letters”).

Through these Letters, Ms. Javice has requested the preservation of items outside JPMC’s possession, custody, and control or of no relevance to disputed issues. For example, your January 18, 2023 correspondence asked JPMC to preserve data in the possession, custody, or control of third parties regarding systems that have no relevance. If Javice wants to preserve such data, JPMC invites Ms. Javice to agree to the opening of full discovery or, at a minimum, Ms. Javice’s agreement to open discovery for the purpose of sending preservation subpoenas to third parties. Additionally, seeking to deflect attention from specific discovery concerns that JPMC has raised, Ms. Javice has made non-specific inquiries regarding JPMC’s preservation efforts. In response to such inquiries, JPMC states that it has taken, and continues to evaluate, reasonable steps to preserve relevant evidence as contemplated by the Federal Rules of Civil Procedure.

Sincerely,



William M. Regan

EXHIBIT C

From: JP Kernisan

Sent: Monday, May 29, 2023 10:07 PM

To: Regan, William M. <william.regan@hoganlovells.com>

Cc: Barlow, Michael A <barlow@abramsbayliss.com>; Maaren Shah <maarenschah@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Walsh, Jr. Peter J. <pwalsh@potteranderson.com>; Pittenger, Michael A. <mpittenger@potteranderson.com>; Wuertz, Allison M <allison.wuertz@hoganlovells.com>

Subject: RE: JPMorgan Chase Bank, N.A. v. Javice et al., D. Del. C.A. No. 22-1621-MN

Bill,

Mike and Pete spoke last week prior to your 11 pm email Friday night indicating your position on lifting the PSLRA stay, so we don't think any further discussion is necessary. We have also conferred with counsel for Mr. Amar and will move tomorrow to lift the PSLRA stay for document discovery. We are available for a call tomorrow at 10 am to the extent you think any further discussion is needed.

Thanks,

JP

From: Regan, William M. <william.regan@hoganlovells.com>

Sent: Friday, May 26, 2023 11:01 PM

To: JP Kernisan <jpkernisan@quinnemanuel.com>

Cc: Barlow, Michael A <barlow@abramsbayliss.com>; Maaren Shah <maarenschah@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Walsh, Jr. Peter J. <pwalsh@potteranderson.com>; Pittenger, Michael A. <mpittenger@potteranderson.com>; Wuertz, Allison M <allison.wuertz@hoganlovells.com>

Subject: RE: JPMorgan Chase Bank, N.A. v. Javice et al., D. Del. C.A. No. 22-1621-MN

[EXTERNAL EMAIL from william.regan@hoganlovells.com]

JP:

JPMC is prepared to move forward with discovery when permitted by the Court. JPMC is the plaintiff in this case and wants to conduct discovery to advance its claims. As you know, even prior to the litigation, JPMC requested that Ms. Javice participate in an interview to discuss the Frank transaction. Ms. Javice agreed in writing to participate in that interview but reneged at the 11th hour and failed to appear. In connection with the agreed interview, JPMC provided your firm with the documents referenced in the Complaint and other key materials. Ms. Javice, in contrast, has provided no information to JPMC.

We assume that Ms. Javice is aware of the motion that the USAO-SDNY filed seeking to stay discovery in the SEC Action. It is to be expected that the USAO-SDNY will likewise seek a stay if and when discovery begins in the civil litigation between JPMC and Ms. Javice. Given the USAO-SDNY's now public position, we suggest that Ms. Javice solicit the USAO-SDNY's view before Ms. Javice submits any motion to the Court in the civil litigation.

Finally, we note that it was Mr. Amar's decision to file a motion to dismiss that triggered the PSLRA discovery stay. Given that fact, we suggest that Ms. Javice confer with Mr. Amar and determine his position prior to filing any motion in the civil litigation.

In the event Ms. Javice elects to file a motion to lift the PSLRA discovery stay without first conferring with the USAO-SDNY and Mr. Amar, JPMC will take no position on that motion based on the considerations outlined above and considering your May 24 response to my earlier questions.

Regards,

Bill

William Regan

Partner

Hogan Lovells US LLP

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New York, NY 10017

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Fax: +1 212 918 3100

Email: william.regan@hoganlovells.com
www.hoganlovells.com

From: JP Kernisan <jpknernisan@quinnemanuel.com>

Sent: Wednesday, May 24, 2023 11:37 AM

To: Regan, William M. <william.regan@hoganlovells.com>; Walsh, Jr. Peter J. <pwalsh@potteranderson.com>; Pittenger, Michael A. <mpittenger@potteranderson.com>; Wuertz, Allison M <allison.wuertz@hoganlovells.com>

Cc: Barlow, Michael A <barlow@abramsbayliss.com>; Maaren Shah <maarensah@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>

Subject: RE: JPMorgan Chase Bank, N.A. v. Javice et al., D. Del. C.A. No. 22-1621-MN

[EXTERNAL]

Bill,

Our client reserves all rights and does not agree to waive anything related to the specific issues mentioned in your email below. Please let us know your position on agreeing to lift the PSLRA stay and open full discovery as soon as possible and no later than this Friday.

We're available to meet and confer tomorrow or Friday. Please let us know your availability.

Thanks,

JP

From: Regan, William M. <william.regan@hoganlovells.com>

Sent: Tuesday, May 23, 2023 5:26 PM

To: JP Kernisan <jpknernisan@quinnemanuel.com>

Cc: Walsh, Jr. Peter J. <pwalsh@potteranderson.com>; Pittenger, Michael A. <mpittenger@potteranderson.com>;

Wuertz, Allison M <allison.wuertz@hoganlovells.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Maaren Shah <maarenschah@quinnemanuel.com>; Barlow, Michael A <barlow@abramsbayliss.com>

Subject: RE: JPMorgan Chase Bank, N.A. v. Javice et al., D. Del. C.A. No. 22-1621-MN

[EXTERNAL EMAIL from william.regan@hoganlovells.com]

JP:

We write to clarify several issues with respect to your email below. First, has Mr. Amar, as a party to the litigation and the PSLRA stay, consented to the proposal to open full discovery? Second, is Ms. Javice proposing to fully participate in the discovery process (*i.e.*, producing documents, answering interrogatories, providing deposition testimony, etc.) without asserting her 5th Amendment rights or any other objections related to the pending criminal and SEC matters? Third, will Ms. Javice waive all objections and fully respond to the limited discovery that JPMC is seeking in its PSLRA discovery motion? Finally, will Ms. Javice agree to not seek advancement for any fees associated with her opposition to JPMC's motion, which she is now proposing to withdraw?

Regards,

Bill

William Regan

Partner

Hogan Lovells US LLP

390 Madison Avenue

New York, NY 10017

Tel: +1 212 918 3000

Direct: +1 212 918 3060

Fax: +1 212 918 3100

Email: william.regan@hoganlovells.com

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From: JP Kernisan <jpkernisan@quinnemanuel.com>

Sent: Sunday, May 21, 2023 8:35 PM

To: Regan, William M. <william.regan@hoganlovells.com>; Walsh, Jr. Peter J. <pwalsh@potteranderson.com>;

Pittenger, Michael A. <mpittenger@potteranderson.com>; Wuertz, Allison M <allison.wuertz@hoganlovells.com>

Cc: Alex Spiro <alexspiro@quinnemanuel.com>; Maaren Shah <maarenschah@quinnemanuel.com>; Barlow, Michael A <barlow@abramsbayliss.com>

Subject: JPMorgan Chase Bank, N.A. v. Javice et al., D. Del. C.A. No. 22-1621-MN

[EXTERNAL]

Counsel:

We are writing to seek your position as to whether you would agree to open full discovery in the above-referenced matter.

On April 6, in response to several of our requests that JPMC preserve documents from sites, accounts, and platforms maintained with certain JPMC and/or Frank vendors, you asked if Ms. Javice would “agree to the opening of full discovery.” Before we had an opportunity to respond, on April 7, you filed a motion to partially lift the PSLRA stay in order to obtain discovery relating to, inter alia, Ms. Javice’s transfers of funds from Chase. Ms. Javice opposed this motion primarily on the grounds that we believe the discovery sought was improper and premature judgment discovery. JPMC’s motion remains pending before the court.

Ms. Javice is willing to agree to the opening of full discovery. If you agree, we will withdraw our pending opposition, subject to a stipulation that Ms. Javice and JPMC each reserve all rights to object to specific discovery requests.

Would you please let us know as soon as possible, and no later than close of business on Tuesday, your position on lifting the stay and proceeding with full discovery?

As stated above, Ms. Javice reserves all rights to oppose any particular discovery requests; further, she reserves all rights in connection with the applicability of the PSLRA stay.

Thanks,

JP

JP Kernisan | Partner | **Quinn Emanuel Urquhart & Sullivan, LLP**

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EXHIBIT D

From: Wuertz, Allison M <allison.wuertz@hoganlovells.com>
Sent: Saturday, July 29, 2023 6:26 PM
To: Alexandria Swette; JP Kernisan; Maaren Shah; Alex Spiro; Jenny Braun; Barlow, Michael A; cordle@abramsbayliss.com; Jacob R. Kirkham; Steve G. Kobre; Sean S. Buckley; Genna Sinel
Cc: Regan, William M.; McGovern, James G.; Rackear, Samuel; Walsh, Jr. Peter J.; Pittenger, Michael A.; Choa, Jonathan A.
Subject: RE: [EXTERNAL] RE: JPMorgan Chase Bank, N.A. v. Javice, et al., Case No. 22-1621 (JDW)

[EXTERNAL EMAIL from allison.wuertz@hoganlovells.com]

Alex,

We disagree with many of the assertions in your email, and JPMC reserves all of its rights.

We are available at 11 am on Wednesday to meet and confer. Please confirm that counsel for both Mr. Amar and Ms. Javice will be in attendance.

Regards,
Allison

From: Alexandria Swette <Alexandria.Swette@kobrekim.com>
Sent: Friday, July 28, 2023 4:28 PM
To: Wuertz, Allison M <allison.wuertz@hoganlovells.com>; JP Kernisan <jpkernisan@quinnemanuel.com>; Maaren Shah <maarensah@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Jenny Braun <jennybraun@quinnemanuel.com>; Barlow, Michael A <barlow@abramsbayliss.com>; cordle@abramsbayliss.com; Jacob R. Kirkham <Jacob.Kirkham@kobrekim.com>; Steve G. Kobre <Steven.Kobre@KobreKim.com>; Sean S. Buckley <Sean.Buckley@kobrekim.com>; Genna Sinel <Genna.Sinel@kobrekim.com>
Cc: Regan, William M. <william.regan@hoganlovells.com>; McGovern, James G. <james.mcgovern@hoganlovells.com>; Rackear, Samuel <Samuel.Rackear@HoganLovells.com>; Walsh, Jr. Peter J. <pwash@potteranderson.com>; Pittenger, Michael A. <mpittenger@potteranderson.com>; Choa, Jonathan A. <jchoa@potteranderson.com>
Subject: RE: [EXTERNAL] RE: JPMorgan Chase Bank, N.A. v. Javice, et al., Case No. 22-1621 (JDW)

[EXTERNAL]

Allison,

Mr. Amar does not have a “newly discovered interest in pursuing prompt discovery.” As you know, almost two months ago, Mr. Amar joined in Ms. Javice’s motion to partially lift the PSLRA’s automatic stay of discovery, while his motion to dismiss was pending.

That Mr. Amar moved to dismiss is beside the point. In many cases, a pending motion to dismiss does not stay the parties’ discovery obligations. The discovery stay here was automatic under the PSLRA. Mr. Amar had the right to seek dismissal of the claims against him, and any delay in discovery that resulted from that motion was a function of the applicable law. And again, notwithstanding the statutory automatic stay, Mr. Amar specifically sought to partially lift the stay to get discovery moving. That stay is no longer in effect, and so discovery must proceed. The Judge’s rules are

unambiguous on this point and provide no exception for a pending motion to stay, particularly one filed by a non-party seeking to intervene.

For the same reasons, there is no merit to your threats to seek legal fees. Moving forward with the Rule 26(f) process in compliance with the Judge's rules is reasonable and advanceable. As you are aware, JPM is not entitled to control Mr. Amar's litigation strategy through the threat of non-payment of its advancement obligations. If JPM improperly refuses advancement, we obviously reserve our right to seek fees for fees in the Rule 88 process.

We are available on Monday at 2:30 p.m. and on Wednesday at 11 a.m. To avoid any further delay in coordinating schedules, we ask that JPM respond promptly with its availability.

Kind regards,
Alex

Alexandria Swette
+1 212 488 4917

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From: Wuertz, Allison M <allison.wuertz@hoganlovells.com>

Sent: Friday, July 28, 2023 9:12 AM

To: Alexandria Swette <Alexandria.Swette@kobrekim.com>; JP Kernisan <jpkernisan@quinnemanuel.com>; Maaren Shah <maarenschah@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Jenny Braun <jennybraun@quinnemanuel.com>; Barlow, Michael A <barlow@abramsbayliss.com>; cordle@abramsbayliss.com; Jacob R. Kirkham <Jacob.Kirkham@kobrekim.com>; Steve G. Kobre <Steven.Kobre@KobreKim.com>; Sean S. Buckley <Sean.Buckley@kobrekim.com>; Genna Sinel <Genna.Sinel@kobrekim.com>

Cc: Regan, William M. <william.regan@hoganlovells.com>; McGovern, James G. <james.mcgovern@hoganlovells.com>; Rackear, Samuel <Samuel.Rackear@HoganLovells.com>; Walsh, Jr. Peter J. <pwalsh@potteranderson.com>; Pittenger, Michael A. <mpittenger@potteranderson.com>; Choa, Jonathan A. <jchoa@potteranderson.com>

Subject: RE: [EXTERNAL] RE: JPMorgan Chase Bank, N.A. v. Javice, et al., Case No. 22-1621 (JDW)

Alex:

Mr. Amar's newly discovered interest in pursuing prompt discovery is of course inconsistent with his filing of a meritless motion to dismiss that triggered the PSLRA stay and delayed the discovery process in this case for months. In addition,

JPMC reached out to Defendants to begin the discovery process on July 18, 2023 and received no response whatsoever until after JPMC followed up on its initial request one week later.

We continue to believe that engaging in the discovery process while the Court is addressing a stay motion by the U.S. Attorney's Office does not make sense. Judge Wolson's Policies and Procedures suggest he will promptly rule on the motion filed by the U.S. Attorney's Office (see Policies and Procedures at 14), and Defendants' apparent plans to oppose that motion represent arguments that have been flatly rejected by another court. Against this record, we reiterate our request to wait for a short period of time to allow the Court to rule on the government's motion to stay. If Defendants insist on proceeding, JPMC reserves the right to object to the unreasonable legal fees that Defendants will incur on this topic but, without waiving such objections, we are prepared to meet and confer regarding a discovery schedule. Please let us know your availability early next week.

Regards,
Allison

From: Alexandria Swette <Alexandria.Swette@kobrekim.com>

Sent: Wednesday, July 26, 2023 8:00 PM

To: Wuertz, Allison M <allison.wuertz@hoganlovells.com>; JP Kernisan <jpkernisan@quinnemanuel.com>; Maaren Shah <maarenschah@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Jenny Braun <jennybraun@quinnemanuel.com>; Barlow, Michael A <barlow@abramsbayliss.com>; cordle@abramsbayliss.com; Jacob R. Kirkham <Jacob.Kirkham@kobrekim.com>; Steve G. Kobre <Steven.Kobre@KobreKim.com>; Sean S. Buckley <Sean.Buckley@kobrekim.com>; Genna Sinel <Genna.Sinel@kobrekim.com>

Cc: Regan, William M. <william.regan@hoganlovells.com>; McGovern, James G. <james.mcgovern@hoganlovells.com>; Rackear, Samuel <Samuel.Rackear@HoganLovells.com>; Walsh, Jr. Peter J. <pwalsh@potteranderson.com>; Pittenger, Michael A. <mpittenger@potteranderson.com>; Choa, Jonathan A. <jchoa@potteranderson.com>

Subject: RE: [EXTERNAL] RE: JPMorgan Chase Bank, N.A. v. Javice, et al., Case No. 22-1621 (JDW)

[EXTERNAL]

Allison,

The government's pending motion to intervene and to stay discovery has no effect on the parties' meet and confer obligations. Judge Wolson's rules specifically provide that "pending motions . . . do not stay the parties' obligations to meet and confer pursuant to [Rule] 26(f)." See Judge Wolson's Policies and Procedures at 6. His rules further provide that "[t]he parties should begin discovery as soon as the Rules permit, without waiting for the Rule 16 conference and regardless of whether a motion is pending." *Id.* If JPMC wishes to stay discovery while the government's motion is pending, "it should present its request in person at the Rule 16 conference." *Id.* at 6-7. Judge Wolson's rules explicitly caution, however, that stays of discovery are granted only in "extraordinary circumstances." *Id.* at 7. And in any event, the government's brief indicates that JPMC has expressed no position on the government's request for a stay.

Delaying our meet and confer to discuss the Rule 26(f) report is not only contrary to Judge Wolson's rules, but will prejudice the parties. Judge Wolson's rules provide that the Court "will consider the time that was available and unused in determining an appropriate schedule for the case." *Id.* at 6. The motion to dismiss was denied almost two weeks ago. Waiting several more weeks to initiate discussions on the scope and timing of discovery serves only to prejudice the parties.

In light of Judge Wolson's rules, and given that discovery is not stayed in this case (and may never be), we should schedule our initial meet and confer as soon as possible. Please respond with your availability, either Friday at 4 p.m. or otherwise.

Kind regards,
Alex

Alexandria Swette
+1 212 488 4917

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From: Wuertz, Allison M <allison.wuertz@hoganlovells.com>

Sent: Wednesday, July 26, 2023 4:16 PM

To: Alexandria Swette <Alexandria.Swette@kobrekim.com>; JP Kernisan <jpkernisan@quinnemanuel.com>; Maaren Shah <maarenschah@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Jenny Braun <jennybraun@quinnemanuel.com>; Barlow, Michael A <barlow@abramsbayliss.com>; cordle@abramsbayliss.com; Jacob R. Kirkham <Jacob.Kirkham@kobrekim.com>; Steve G. Kobre <Steven.Kobre@KobreKim.com>; Sean S. Buckley <Sean.Buckley@kobrekim.com>; Genna Sinel <Genna.Sinel@kobrekim.com>

Cc: Regan, William M. <william.regan@hoganlovells.com>; McGovern, James G. <james.mcgovern@hoganlovells.com>; Rackear, Samuel <Samuel.Rackear@HoganLovells.com>; Walsh, Jr. Peter J. <pwash@potteranderson.com>; Pittenger, Michael A. <mpittenger@potteranderson.com>; Choa, Jonathan A. <jchoa@potteranderson.com>

Subject: RE: [EXTERNAL] RE: JPMorgan Chase Bank, N.A. v. Javice, et al., Case No. 22-1621 (JDW)

Alexandria,

In light of the motion to intervene and to stay discovery filed by the U.S. Attorney's Office yesterday evening, we do not think it makes sense to proceed with the 26(f) conference this Friday as proposed. If the stay is granted, discovery may be delayed for a long period of time or may not ever occur, depending on the developments in the criminal matters. Given that uncertainty, we do not think it is a good use of time and resources to discuss a discovery schedule at this time. We propose that, If the Court denies the motion to stay, the parties agree to meet and confer on a discovery schedule within 7 days of that decision.

Regards,
Allison

From: Alexandria Swette <Alexandria.Swette@kobrekim.com>

Sent: Wednesday, July 26, 2023 10:30 AM

To: Wuertz, Allison M <allison.wuertz@hoganlovells.com>; JP Kernisan <jpkernisan@quinnemanuel.com>; Maaren Shah <maarenschah@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Jenny Braun <jennybraun@quinnemanuel.com>; Barlow, Michael A <barlow@abramsbayliss.com>; cordle@abramsbayliss.com;

Jacob R. Kirkham <Jacob.Kirkham@kobrekim.com>; Steve G. Kobre <Steven.Kobre@KobreKim.com>; Sean S. Buckley <Sean.Buckley@kobrekim.com>; Genna Sinel <Genna.Sinel@kobrekim.com>
Cc: Regan, William M. <william.regan@hoganlovells.com>; McGovern, James G. <james.mcgovern@hoganlovells.com>; Rackear, Samuel <Samuel.Rackear@HoganLovells.com>; Walsh, Jr. Peter J. <pwalsh@potteranderson.com>; Pittenger, Michael A. <mpittenger@potteranderson.com>; Choa, Jonathan A. <jchoa@potteranderson.com>
Subject: RE: [EXTERNAL] RE: JPMorgan Chase Bank, N.A. v. Javice, et al., Case No. 22-1621 (JDW)

[EXTERNAL]

Following up on the below. Are you available on Friday at 4 p.m. to M&C? If not, can you please propose other times/dates that work for you?

Alexandria Swette
+1 212 488 4917

KOBRE & KIM

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From: Alexandria Swette <Alexandria.Swette@kobrekim.com>
Sent: Monday, July 24, 2023 9:30 PM
To: Wuertz, Allison M <allison.wuertz@hoganlovells.com>; JP Kernisan <jpkernisan@quinnemanuel.com>; Maaren Shah <maarensah@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Jenny Braun <jennybraun@quinnemanuel.com>; Barlow, Michael A <barlow@abramsbayliss.com>; cordle@abramsbayliss.com; Jacob R. Kirkham <Jacob.Kirkham@kobrekim.com>; Steve G. Kobre <Steven.Kobre@KobreKim.com>; Sean S. Buckley <Sean.Buckley@kobrekim.com>; Genna Sinel <Genna.Sinel@kobrekim.com>
Cc: Regan, William M. <william.regan@hoganlovells.com>; McGovern, James G. <james.mcgovern@hoganlovells.com>; Rackear, Samuel <Samuel.Rackear@HoganLovells.com>; Walsh, Jr. Peter J. <pwalsh@potteranderson.com>; Pittenger, Michael A. <mpittenger@potteranderson.com>; Choa, Jonathan A. <jchoa@potteranderson.com>
Subject: RE: [EXTERNAL] RE: JPMorgan Chase Bank, N.A. v. Javice, et al., Case No. 22-1621 (JDW)

Allison,

We are still confirming availability on our end, but it looks like Friday at 4 p.m. ET will work. Please let us know if that time works on your end.

Thanks,
Alexandria

Alexandria Swette
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From: Wuertz, Allison M <allison.wuertz@hoganlovells.com>

Sent: Monday, July 24, 2023 4:04 PM

To: JP Kernisan <jpkerisan@quinnemanuel.com>; Maaren Shah <maarensah@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Jenny Braun <jennybraun@quinnemanuel.com>; Barlow, Michael A <barlow@abramsbayliss.com>; cordle@abramsbayliss.com; Jacob R. Kirkham <Jacob.Kirkham@kobrekim.com>; Steve G. Kobre <Steven.Kobre@KobreKim.com>; Sean S. Buckley <Sean.Buckley@kobrekim.com>; Alexandria Swette <Alexandria.Swette@kobrekim.com>; Genna Sinel <Genna.Sinel@kobrekim.com>

Cc: Regan, William M. <william.regan@hoganlovells.com>; McGovern, James G. <james.mcgovern@hoganlovells.com>; Rackear, Samuel <Samuel.Rackear@HoganLovells.com>; Walsh, Jr. Peter J. <pwalsh@potteranderson.com>; Pittenger, Michael A. <mpittenger@potteranderson.com>; Choa, Jonathan A. <jchoa@potteranderson.com>

Subject: [EXTERNAL] RE: JPMorgan Chase Bank, N.A. v. Javice, et al., Case No. 22-1621 (JDW)

Counsel:

Following up on our email below, please provide dates for an initial meet and confer to discuss the discovery process.

Thanks,
Allison

From: Regan, William M. <william.regan@hoganlovells.com>

Sent: Tuesday, July 18, 2023 6:17 PM

To: JP Kernisan <jpkerisan@quinnemanuel.com>; Maaren Shah <maarensah@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Jenny Braun <jennybraun@quinnemanuel.com>; Barlow, Michael A <barlow@abramsbayliss.com>; cordle@abramsbayliss.com; Jacob R. Kirkham <Jacob.Kirkham@kobrekim.com>; Steve G. Kobre <Steven.Kobre@KobreKim.com>; Sean S. Buckley <Sean.Buckley@kobrekim.com>; Alexandria Swette <Alexandria.Swette@kobrekim.com>; Genna Sinel <Genna.Sinel@kobrekim.com>

Cc: McGovern, James G. <james.mcgovern@hoganlovells.com>; Wuertz, Allison M <allison.wuertz@hoganlovells.com>; Rackear, Samuel <Samuel.Rackear@HoganLovells.com>; Walsh, Jr. Peter J. <pwalsh@potteranderson.com>; Pittenger, Michael A. <mpittenger@potteranderson.com>; Choa, Jonathan A. <jchoa@potteranderson.com>

Subject: JPMorgan Chase Bank, N.A. v. Javice, et al., Case No. 22-1621 (JDW)

Counsel:

In light of the Court's July 13, 2023 order denying Mr. Amar's motion to dismiss the Complaint, we wanted to reach out to schedule an initial meet and confer call to discuss the discovery process and schedule for this litigation. A copy of the Court's form Rule 26(f) report is attached. Please let us know your availability later this week or early next week.

Regards,

Bill

William Regan

Partner

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EXHIBIT E

N6FBJAVO

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

23 Civ. 2795 (LJL)

JAVICE, et al,

Defendants.

Oral Argument

-----x

New York, N.Y.
June 15, 2023
2:00 p.m.

Before:

HON. LEWIS J. LIMAN,

District Judge

APPEARANCES

U.S. SECURITIES AND EXCHANGE COMMISSION

Attorneys for Plaintiff SEC

BY: DANIEL LOSS

LINDSAY S. MOILANEN

UNITED STATES ATTORNEY'S OFFICE, SDNY

Attorneys for Intervenor United States

BY: MICAH F. FERGENSON

DINA McLEOD

QUINN EMANUEL URQUHART & SULLIVAN, LLP

Attorneys for Defendants

BY: SARAH H. CONCANNON

MATTHEW LANGLEY

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(Case called; appearances noted)

THE COURT: All right. So we're here today for argument on the motion to intervene and to stay discovery. I'll hear first from the government as the movant party. If the SEC wants to add anything, I'll hear from the SEC after that, then I'll hear from the defendant, and then I'll give the government, as the moving party, the last word. I don't think you need to spend much time on the motion to intervene itself. You may proceed.

MR. FERGENSON: Understood, your Honor. And I'll go directly to the motion to stay. Your Honor, this is not a close call. All of the factors that courts consider when assessing a motion to stay discovery in this context, favor granting the stay. And just to -- I know the Court has carefully read the papers as it does, so I'll be brief. But first, the overlap. It's undisputed that the two cases involve essentially the same facts and issues. The status of the criminal case, Ms. Javice has been indicted. She's received Rule 16 discovery. And until the defendant objected, there was an October trial date.

THE COURT: Can you tell me, I take it through the access request, you've gotten access to the SEC investigative file; is that correct?

MR. FERGENSON: We have received the materials that the SEC has received from third parties, as opposed to perhaps

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1 the entirety of the investigative file, but we received their
2 third-party records, your Honor. They're currently, just to
3 give you the full status, they're currently being loaded to our
4 review platform so that we can take a look at them and then
5 provide the Rule 16 in the criminal case. Our understanding is
6 that they are largely, if not entirely, duplicative of what has
7 already been produced, but we will produce it out of an
8 abundance of caution as well.

9 THE COURT: Do I hear you making the representation
10 that with respect to documents from third parties collected by
11 the SEC during its investigation that all of those will be
12 turned over to Ms. Javice?

13 MR. FERGENSON: Yes, your Honor.

14 THE COURT: Okay. What does that leave from the
15 investigative file, or maybe it's a question for counsel for
16 Ms. Javice. I assume it would leave work product. It may
17 leave investigative testimony they took, but what's not in
18 there?

19 MR. FERGENSON: I would, if I may, your Honor, I would
20 probably respectfully defer to SEC counsel on that point.

21 THE COURT: They'll address that after you're done.

22 MR. FERGENSON: Thank you, your Honor. So that's the
23 status of the criminal case. Turning to personal prejudice to
24 the parties involved. For the same reason that I just
25 mentioned that there was a trial date four months away until

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1 Ms. Javice requested that there not be, there's no prejudice
2 here. She can't make any credible claim for prejudice here
3 based on delay. And again because Rule 16 has been produced,
4 third-party materials from the SEC will be produced. There's
5 no prejudice here from pausing discovery in this case.

6 Turning to the interest of the court, clearly favors a
7 stay for the efficiency of judicial administration. Simply
8 conserving judicial resources and avoiding things like
9 inconsistent rulings. And finally, the public interest. A
10 stay in this case helps ensure the integrity and truth-seeking
11 function of the criminal process. As we laid out in our reply
12 brief, the defendant is transparently seeking to use civil
13 discovery here and in the Delaware case against involving JPMC,
14 the private action, for use in her criminal case. And that's
15 antithetical to the criminal discovery rules carefully
16 considered to reflect the asymmetry posed by the Fifth
17 Amendment privilege in a criminal context, which are meant to
18 avoid undue burdening of witnesses and third parties, as well
19 as tailored or perjured testimony in a criminal case.

20 So for all those reasons, each of the factors favors a
21 stay. And I think we would just respectfully submit again it's
22 not a close case. I would want to address one other point if I
23 may, your Honor, briefly.

24 THE COURT: Go ahead, and then I've got a couple of
25 questions.

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1 MR. FERGENSON: The defense made a lot of baseless
2 accusations of essentially bad faith, even accusing the
3 government of bad faith with respect to discovery in attempting
4 to withhold its discovery. We responded to those points in our
5 reply brief, but we want to make perfectly clear to the Court
6 that there's absolutely no truth to any of those accusations.
7 The government had already produced discovery as I noted before
8 that opposition was filed and those accusations were made. As
9 we laid out in the reply, those claims are simply contradicted
10 by the record. Thank you, your Honor.

11 THE COURT: Maybe you can help me on a couple of
12 things. I take it you would agree the case law indicates that
13 a stay of discovery is generally disfavored in the law,
14 correct?

15 MR. FERGENSON: I think there is often included in
16 cases, albeit cases where they are granting a stay of discovery
17 recognizing staying a civil case is generally disfavored.
18 However, in the cases I'm thinking of -- and in many cases that
19 we cited, courts weigh that against the potential harm to the
20 criminal process, the efficiencies gained by staying discovery
21 in the civil case. And in context like this, simply the lack
22 of any prejudice to staying the case and balancing all those
23 factors find that staying discovery is warranted.

24 THE COURT: I understand that, but this is a little
25 bit of an unusual case in that it appears that the SEC brought

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1 its complaint well within the time period that it could bring a
2 SEC complaint. I presume -- and maybe this will be a question
3 for the SEC -- that if I were to deny your motion, the SEC
4 might well decide to dismiss its complaint without prejudice,
5 which it would be within its rights to do. There's been no
6 answer in this case, and you still have plenty of time on the
7 clock. So what do you say about the fact that the cases were
8 brought at the same time and by the SEC sort of knowing full
9 well what was going to happen.

10 I mean, it doesn't take a Ph.D. to know that when
11 parallel proceedings are brought, the government is going to
12 move to stay. And that under these unusual circumstances, I
13 should deny your application for a stay and put the question to
14 them, are you going to proceed or not?

15 MR. FERGENSON: I think on certain aspects of that I
16 would defer to the SEC's view; however, I would offer as an
17 observation reading these many opinions brought in identical
18 circumstances when parallel proceedings are brought and the SEC
19 actions are stayed for discovery. As the courts recognize --
20 and I could let the SEC speak to this -- that the SEC has an
21 interest in enforcing its statutory dictates. And the
22 enforcement by the SEC also has interest and should -- they're
23 well within their rights indeed doing what they're supposed to
24 do by bringing actions promptly. Now, weighing the factors
25 that the Court is suppose to weigh --

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1 THE COURT: Bringing it promptly, but knowing full
2 well -- being able to anticipate full well the motion that you
3 now are making.

4 MR. FERGENSON: Well, your Honor, I guess where you
5 stand on these is a function of where you sit. And from the
6 United States's point of view, we believe discovery should be
7 stayed. I understand the SEC's position is they take no
8 position on it, but this is not an uncommon posture that we
9 find ourselves in. And courts in this district routinely,
10 nonetheless, stay the SEC proceedings. And I'm not aware that
11 courts consider, for instance, the running of the statute when
12 doing so and the timeliness of the SEC's case. I think the
13 application of the well-established factors here clearly favor
14 a stay, and we would submit that the Court should stay
15 discovery in this matter.

16 THE COURT: Let me ask you two more questions. I
17 accept your notion that permitting this case to go forward
18 through discovery would threaten the integrity of Rule 16 and
19 criminal discovery and the limitations on criminal discovery.
20 That said, that concern seems somewhat abstract, and maybe you
21 can be a little bit more concrete for me in a case where it's a
22 white collar defendant who doesn't seem to present a particular
23 risk of threatening witnesses or what the real concern is in
24 terms of letting discovery go forward.

25 MR. FERGENSON: I think there's a few points to make,

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1 your Honor. I take your Honor's point that this isn't a mafia
2 case where witnesses are going to be threatened for their life,
3 but there is still a concern in a criminal case like this one
4 about the tampering with the integrity of the criminal process.
5 And one is that the structures of the criminal discovery
6 process are designed to try and eliminate, if not the
7 intimidation of witnesses that your Honor sort of referenced,
8 still the tailoring of testimony.

9 And I would submit that these kinds of concerns are
10 present in this case where, as the government has alleged, the
11 defendant fabricated documents. She fabricated a dataset. It
12 was a brazen scheme, your Honor, with bald-face lies repeated
13 over and over, orally, in print, in presentations, and then
14 through fabricated documents. That poses a concern. I think
15 the second point I'd make, your Honor, is that in the Delaware
16 proceeding, JPMC sued Ms. Javice and another individual. The
17 other individual filed a motion to dismiss. Ms. Javice did not
18 do so. She filed, not only an answer, but a counterclaim
19 against the victim of her fraud. She has countersued the
20 victim. And that countersuit relies on allegations that are
21 demonstrably false. And I think in this context pairing that
22 with the procedural history that we've outlined in our reply
23 brief raises serious concerns about the efforts being taken
24 through the civil process to try and effect the criminal case.

25 And so I take your Honor's point, it's not a violent

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1 crime case or one where people are going to be threatened with
2 their lives, but there are still real concerns about improperly
3 effecting and tampering with the criminal process in this case.

4 THE COURT: What is the status of the Delaware case?

5 MR. FERGENSON: The status is that the motion to
6 dismiss by the other individual is pending. There are sort of
7 multiple motions related to the potential opening of discovery
8 pending, and the government intends to file a motion to stay
9 discovery in that proceeding as well. It has not done so yet,
10 but that's the current status. The motions are essentially
11 pending. Discovery has not proceeded.

12 THE COURT: In this case the defendant has argued as
13 an alternative the document discovery should be permitted to
14 proceed. And while they talk about documents from the SEC, I'm
15 also presuming that they're talking about subpoenas, Rule 45
16 subpoenas to third parties. They don't say it, but that's
17 pretty transparent what would happen. But what would be the
18 danger of that from the perspective of the criminal case? I
19 realize that Rule 17 subpoenas ordinarily are only returnable
20 at the time of trial, but judges frequently allow defendants to
21 serve Rule 17 subpoenas earlier than that. And so why
22 shouldn't I grant that limited relief?

23 MR. FERGENSON: I think there are a couple of reasons,
24 your Honor. One is just consideration of the waste of
25 resources, both judicial, and the burdening of third parties

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1 and witnesses if they are being subpoenaed and compelled in
2 multiple proceedings at the same time over essentially the same
3 facts, same issues.

4 The second is that, relatedly, they're going to be
5 getting the third-party materials that the SEC has collected.
6 They already have our Rule 16 discovery presently produced, and
7 Rule 17 and criminal discovery is typically narrower than sort
8 of the broad civil discovery rules -- and I think intentionally
9 so for many of the factors I've outlined, or the consideration
10 and principles I've outlined previously in ensuring sort of
11 truth-seeking function of the criminal process; when the stakes
12 are highest and people's incentives are probably also at their
13 highest to not necessarily play by the rules.

14 I think all those reasons would counter in favor in
15 also staying document discovery. One, it's essentially moot
16 because again they're getting the documents. Two, it's a waste
17 of the court's resources and a burden on these third parties;
18 and three, it just wouldn't align with the purposes of the
19 criminal process and its truth-seeking function.

20 THE COURT: It's that third point that I'm focused on,
21 and I'm not sure you've gotten me across the line on it. The
22 first two seem to me to be not particularly powerful. If it's
23 a waste of time and they already have the documents, then
24 there's not going to be all that much work for me to do. And
25 if there's work for me to do, then maybe it's a good thing. It

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1 means that once this case gets started, then it can get started
2 pretty quickly. So your argument has to be driven by the third
3 point, give me a little bit more on the third point if you've
4 got more.

5 MR. FERGENSON: Well, I was going to say, I thought
6 two out of three was not bad. I guess I can at least point you
7 to the fact that courts have found that point compelling in
8 other cases. For instance, at our brief at pages 11 to 12, we
9 cited the *Pharaon* case in which they basically say that a
10 litigant should not be allowed to make use of the liberal
11 discovery procedures applicable to a civil suit as a dodge to
12 avoid the restrictions on criminal discovery and thereby obtain
13 documents he would not otherwise be entitled to for use in his
14 criminal trial.

15 Maybe the points I touched on today and we describe in
16 our brief about the criminal discovery process is more
17 circumscribed, and intentionally so and for good reasons. I
18 think those are the reasons the courts have found compelling in
19 staying even document discovery in these context.

20 THE COURT: All right. Let me hear from the SEC.

21 MR. LOSS: Yes, your Honor. The SEC takes no position
22 as the Court is aware on the government's request. I can try
23 to address a couple of the questions that I think the Court
24 raised during the government's presentation. With respect to
25 the scope of the SEC's investigative file, in this matter the

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1 documents produced by third parties which totaled approximately
2 107,000 documents and have all been provided to the government
3 we understand, and we understand in turn will be provided to
4 defense in the parallel criminal case. That universe
5 represents the lining share, the overwhelming majority of what
6 is included in the SEC's investigative file in this particular
7 matter.

8 THE COURT: What's the other category?

9 MR. LOSS: The other categories would include, for
10 example, emails between members of the SEC staff and third
11 parties, such as counsel for various witnesses. Many of these
12 often tend to be logistical in nature, but it does include
13 external emails. It would include investigative subpoenas, the
14 actual subpoena, not the subpoena return. It would include
15 agreements, such as proffer agreements with witnesses. And
16 those I believe would be sort of the principal categories of
17 additional materials in this case. There are also as your
18 Honor mention work product. There may be categories of
19 internal communications, internal documents analyses that are
20 subject to work product or other applicable privileges and
21 protections, which typically would not be produced as part of
22 an investigative file in a civil case of which privilege may be
23 asserted.

24 THE COURT: Was there investigative testimony?

25 MR. LOSS: There was no investigative testimony in

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1 this matter.

2 THE COURT: Okay. There was some other questions I
3 asked.

4 MR. LOSS: Yes, I think your Honor asked whether in
5 the event that the government's motion is not granted whether
6 the SEC would intend to dismiss its complaint without
7 prejudice.

8 THE COURT: Put another way, what was the exigency of
9 bringing this case when it was brought, presumably in the face
10 of knowing that the government was also doing an investigation
11 was likely to bring charges, did bring charges.

12 MR. LOSS: To address I think both of the issues
13 embedded in your Honor's questions. First, just to be clear,
14 the SEC does not -- would not presently intend to dismiss its
15 complaint in the event that the government's motion were to be
16 denied and it is prepared to proceed with the litigation in the
17 civil matter in the event that the government's motion is
18 denied. With respect to the SEC bringing its complaint when it
19 did. As the government alluded to in its presentation to the
20 Court, the SEC has independent interests, an independent
21 mission. It's a separate agency, as the Court is of course
22 aware. It's not part of the department of justice. We have a
23 separate interest to protect investigators and to seek the
24 relief that we seek in the complaint. And there are a variety
25 of facts and circumstances that always go into determining when

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1 to bring an action.

2 In this case, the SEC felt that it was ready to
3 proceed when it did. I would add as an illustrative example of
4 the relief being sought in the SEC action that cannot be
5 sought -- and is not being sort in the criminal case. There's
6 an officer and director bar as one example of that. So for
7 those reasons, the SEC felt it was important to move forward
8 when we did.

9 THE COURT: One other question for you. If when this
10 case proceeds, is the SEC going to have any objection to the
11 defendant's use in this case of documents that the defendant
12 has obtained in the criminal case?

13 MR. LOSS: Your Honor, my understanding is there may
14 be a protective order that governs documents that are produced
15 in the parallel criminal case, and so I think it would depend
16 on --

17 THE COURT: Fair enough. On the assumption that your
18 colleague -- or not your colleague, but the prosecutor next to
19 you doesn't object to Ms. Javice using, in this case, documents
20 that she has received from the government in their case, is the
21 SEC going to present an independent obstacle to that?

22 MR. LOSS: Your Honor, I don't anticipate that. In
23 order to provide fuller assurance, I would need to get
24 additional approvals than what I have right now, but I don't
25 presently anticipate that that would be the case, provided that

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1 whatever materials that have been provided to the defendant in
2 the criminal case that would be potential use in the civil case
3 provided that the discovery obligations are complied with in
4 the civil case, I don't anticipate --

5 THE COURT: You could serve a document demand for
6 everything that she got in the criminal case.

7 MR. LOSS: That's right, your Honor, and that's why I
8 don't anticipate there will be any objection.

9 THE COURT: I ask because as you know one of the
10 arguments that the defendants make is that they would have to
11 start all over again in the SEC case, in this case, if I were
12 to grant a stay. I'm not sure that that's the case. All
13 right. Let me hear from the defense.

14 MS. CONCANNON: Good afternoon, your Honor. So this
15 case boils down to the question whether this Court should
16 exercise its discretion in the face of vehement opposition by
17 Charlie Javice to impose a stay. And we respectfully submit
18 that four out of six of the *Louis Vuitton* factors clearly weigh
19 against a stay under the unique circumstances of this case.
20 But before I address those, I want to get to the elephant in
21 the room, which is this question of Rule 16 discovery. And I
22 would direct the Court to the SEC's letter, which is docket 25,
23 in which SEC informed the Court of its intention, despite
24 expressing neutrality with regard to the stay, to continue to
25 use its investigative authority to conduct an investigation

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1 during the pendency of a stay.

2 What that means is that the SEC continues to use
3 investigative subpoenas, to take investigative testimony, to
4 conduct witness interviews, all under the specter of Section
5 1001.

6 THE COURT: Why is that a ripe issue for me to
7 consider right now? They can do whatever they want
8 administratively. They're investigating other people. If it
9 comes to the use in this case, then whatever arguments you've
10 got now, you can make later on. I don't quite understand your
11 argument.

12 MS. CONCANNON: Your Honor, it is a question of
13 timing, and it's also a question of having chosen to avail
14 itself of the court by filing its litigation now, the SEC has
15 taken the position that further discovery should be pursuant to
16 the Federal Rules of Civil Procedure. But now they're saying
17 they wish to conduct a further investigation. They assert,
18 your Honor, that this is of unrelated individuals, but it is in
19 this same file. It assuredly is going to contain information
20 that is directly related to Ms. Javice's defense of the SEC's
21 case.

22 THE COURT: Again, you know, if this case goes forward
23 for discovery, wouldn't you agree with me that it would be an
24 improper use of civil discovery for them to use it for
25 investigative purposes rather than for evidence that's relevant

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1 to the prosecution against Ms. Javice. And if you agree with
2 that, that presupposes that the SEC has the power, which it
3 always has, to use its investigative techniques.

4 MS. CONCANNON: What is unusual about this case, your
5 Honor, is the fact that the SEC is saying it wants to use its
6 investigative techniques after the filing of a litigated case,
7 but during the pendency of a stay. What they have represented
8 to this Court is that they're intention is that they would
9 produce none of those documents to Ms. Javice until the end of
10 the pendency of any stay after the conclusion of the criminal
11 case.

12 THE COURT: Maybe I'll ask the SEC this question. I
13 had understood that they were going to make all of the
14 materials that they obtained through their continued
15 investigation available to the prosecutor through their access
16 request. And then to the extent it's relevant to the criminal
17 case, you would get it. But let me ask both parties that
18 question, because I understand your point.

19 MR. LOSS: Yes, your Honor. So, first, as your Honor
20 rightfully observed, the continuing investigation the SEC
21 intends to conduct is with respect to uncharged parties. To
22 the extent that the SEC obtains documents in connection with
23 its investigation of uncharged parties that are relevant to
24 this litigation, we'll produce them directly to the defendant
25 at the appropriate time.

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1 THE COURT: No. No. No. You're not answering my
2 question about when you're going to make available to the U.S.
3 government through an access request.

4 MR. LOSS: Yes, your Honor. I apologize. I should
5 have led with that. To the extent that the U.S. Attorney's
6 office makes a request for us to produce those documents
7 pursuant to our access request, we will of course do so with
8 the understanding that they may in turn be produced in criminal
9 discovery.

10 MR. FERGENSON: We intend to do so, your Honor.

11 MS. CONCANNON: So, your Honor, obviously to the
12 extent documents are provided in a timely fashion by the SEC to
13 the government and then produced by the government in the
14 criminal case to Ms. Javice, that would be better, frankly,
15 less prejudicial to my client. But I have not heard anything
16 other than that the SEC intends in the normal course of time to
17 conduct an investigation. As you're well-aware, the criminal
18 case will be moving on an expedited timeline. And if the SEC
19 is representing that essentially document discovery will be
20 made to Ms. Javice, then I agree with the Court that the
21 appropriate solution here is the compromise that we proposed,
22 which is document discovery goes forward, cut out the middle
23 man. Have the SEC produce to Ms. Javice their investigative
24 file now. And as they continue to create an investigative file
25 that contains relevant responsive information to Ms. Javice's

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1 defense of the SEC case, they can timely turn it over to us so
2 that after the pendency of a stay, we're not prejudiced by
3 being behind the nine months to ten months to 12 months behind
4 in developing our defense to the SEC's case.

5 THE COURT: What is it that you're not getting through
6 the prosecutor in this case from the investigative file that
7 you contend that you would have a right to, either in this case
8 or to defend the criminal case?

9 MS. CONCANNON: So, your Honor, for example, in the
10 Rule 16 discovery that we recently received from the
11 government, we appear to not have any subpoenas to J.P. Morgan
12 Chase. We appear to not have any text between LionTree which
13 was an advisor in connection with this matter. We have no text
14 from JPMC. Our understanding of what happened here, your
15 Honor, is that JPMC after filing its civil litigation against
16 Ms. Javice back in December of 2022, made certain documents
17 available to the government, the SEC, and the criminal
18 authorities that comprise the majority of the investigative
19 files on which both the government and the SEC brought their
20 litigated actions against Ms. Javice.

21 Now the SEC is saying, it wants to go out and develop
22 further evidence. And so that is the evidence that should be
23 timely produced to Ms. Javice, again in connection with this
24 action. And among other things, Mr. Loss mentioned to the
25 Court that they would intend to withhold their subpoenas. What

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1 they request in their subpoenas to third parties are directly
2 relevant to our determination of whether they have a full and
3 complete record of these third party documents to which
4 Ms. Javice no longer has access in connection with her defense;
5 or whether in fact the third parties have selectively provided
6 the government with incomplete records. And that's something
7 that we should be permitted to test sooner rather than later
8 through the fullness of civil discovery, the SEC having chosen
9 to file a litigated action now.

10 THE COURT: Isn't that a matter that's better taken up
11 with Judge Hellerstein. I understand the point that you don't
12 know through your Rule 16 discovery what it is that is missing.
13 You're getting a huge number of documents, but why isn't that
14 something that Judge Hellerstein is better able to address?

15 MS. CONCANNON: And we intend to, your Honor. But
16 because the issue is before this Court with regard to the
17 appropriateness of civil discovery in the defense of the SEC
18 action, what both the government and the SEC have described is
19 essentially a funnel process. So the government will receive
20 from the SEC when it request it and what it request. It will
21 then upload, as Mr. Fergenson said at the beginning of his
22 arguments, those documents into the government's review
23 database. It will then determine what it feels it is obligated
24 to produce to Ms. Javice under Rule 16, and that will then be
25 produced to us.

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1 For example, we still don't have the documents that
2 the SEC has already provided to the government, so we have the
3 government's Rule 16 production, but we do not have the SEC
4 file.

5 THE COURT: Actually, how do you know that? You got a
6 whole bunch of documents from the government. It may not
7 indicate the provenance whether they came to the U.S.
8 Attorney's office through the SEC or directly to the
9 prosecutor.

10 MS. CONCANNON: So the government stated in its reply
11 brief to this Court and Mr. Fergenson said it earlier today in
12 the argument that they have received the SEC's file. They have
13 uploaded it into their review database. They intend at the
14 appropriate time to produce that to Ms. Javice. We don't have
15 it. And under the exigencies of moving this case forward and
16 allowing Ms. Javice to fully reach resolution in each of the
17 areas in which she has been prejudiced and her reputation has
18 been dragged through the mud, we would like to ensure that the
19 SEC case is moving forward in a timely fashion.

20 And as the Court said, if the SEC would like to
21 continue to investigate during the pendency of a stay, the
22 appropriate thing for the SEC to do, because there is no
23 statute of limitations in this issue or in this case at all, is
24 to voluntarily dismiss its action without prejudice.
25 Ms. Javice would be more than willing to sign a tolling

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1 agreement. And then in the fullness of time after they've
2 completed their investigation, they can come back before the
3 Court and engage in a full and robust civil discovery process
4 under the Federal Rules of Civil Procedure. But unless and
5 until the SEC is ready to do that, what I'm hearing the
6 government and the SEC represent to this Court is that they
7 will decide when and how much of the SEC's file Ms. Javice is
8 entitled to, and that is deeply prejudicial.

9 THE COURT: Anything else?

10 MS. CONCANNON: Your Honor, you mentioned with regard
11 to the compromise solution. We respectfully submit that full
12 discovery should go forward. The SEC should litigate its
13 claims now. As you mentioned, third-party discovery is
14 incredibly important to the defense in the SEC action. But in
15 the alternative, we would submit that there should be document
16 production at a minimum.

17 THE COURT: Document production from the SEC.

18 MS. CONCANNON: Correct. And as you said under Rule
19 45 as well because, since Ms. Javice was terminated, the bulk
20 of the documents relevant to her defense do rest in the hands
21 of third parties. And because we have this concern that third
22 parties potentially are providing cherry-picked self-serving
23 documents to the government, we should be able to pursue
24 third-party discovery in order to ensure that we in fact are
25 getting full responses.

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1 THE COURT: Aren't you able to get all of that
2 information through Rule 17 subpoenas in the criminal case?
3 And if you can't get it through Rule 17 in the criminal case
4 because Judge Hellerstein doesn't sign off on the subpoenas for
5 early production, then wouldn't discovery in this case be a way
6 of you just advantaging yourself in the criminal case in a way
7 that the rules don't contemplate, essentially circumventing
8 Judge Hellerstein's decision not to sign a Rule 17 subpoena?

9 MS. CONCANNON: Respectfully, your Honor, no, that is
10 not our intention. Our intention is just to avail Ms. Javice
11 of the best defense possible in the SEC case, which does
12 include that third-party discovery in a timely fashion.

13 THE COURT: You may say that's not your intention, but
14 it would be the effect, wouldn't it? That essentially if I let
15 document discovery go forward in this case, it would relieve
16 you of the obligation of having to satisfy Judge Hellerstein?

17 MS. CONCANNON: Well, your Honor, first I think in
18 order for us to avail ourselves of any documents in this
19 action, in the criminal action, we would need to go before
20 Judge Hellerstein and inform him of that intent, so I believe
21 the Court still controls that. But as many, many courts have
22 said, the mere incidental fact that civil discovery has some
23 relevance to the criminal case is not a factor that's
24 dispositive in whether or not the civil litigant should be
25 permitted to move forward with the timely adjudication or

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1 timely litigation and then adjudication of the claims.

2 Again, Ms. Javice is eager to obtain resolution of all
3 of the matters in which she finds herself, the D. Delaware
4 action, the criminal action and the SEC action. And here where
5 the SEC has chosen to file its case, we do believe that the SEC
6 has an obligation to either move forward under the rules of
7 Federal Rule of Civil Procedure, or in the alternative
8 voluntarily dismiss its action and come back before the Court
9 when it is ready to litigate.

10 THE COURT: All right. Anything further from the
11 government?

12 MR. FERGENSON: No, your Honor.

13 THE COURT: I've got one further question for you
14 which is the concern that was mentioned by the defense, and
15 it's a concern it's pretty obvious that without the subpoenas
16 and without knowing what restrictions the third parties put on
17 what was going to be produced, the defense, either in this case
18 or in the criminal case has no idea as to what was missing from
19 the production?

20 There might be a smoking gun. There might be an email
21 where Ms. Javice said to J.P. Morgan, these customers are not
22 yet real customers where we have information, identifying
23 information. And the SEC said to them, you know what, hold
24 back on that document.

25 MR. FERGENSON: I think I can maybe make a few points,

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1 your Honor. This is the first we've heard of this particular
2 concern and any kind of request from the defense for the
3 substance of our request to third parties so that they can
4 assess if there are missing materials. It's certainly
5 something we would have been happy to discuss with them and
6 probably come to a resolution without court intervention.

7 I think as the Court is probably aware, it is
8 customary practice that in producing Rule 16 discovery, we
9 don't produce our actual grand jury subpoenas. We produce the
10 documents received. That said as I noted, I'm sure we could
11 come to some kind of accommodation with the defense on this
12 topic.

13 THE COURT: One reason why you don't produce grand
14 jury subpoenas is because of grand jury secrecy. It's not
15 quite applicable to SEC administrative subpoenas.

16 MR. FERGENSON: No, that's fair, your Honor. I'm
17 speaking from the perspective of the criminal case primarily.
18 I had heard defense counsel say that in the Rule 16 discovery
19 there were no subpoenas and that is customary. But to the
20 extent this is an issue that is important to the defense, we're
21 happy to have discussions with them about it and hopefully come
22 to some kind of resolution.

23 THE COURT: All right. I'm going to take the matter
24 under advisement. I'll get you an opinion pretty quickly.
25 Thank you all. (Adjourned)

EXHIBIT F

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----:

UNITED STATES OF AMERICA, :
 : Docket #23-MJ-2638

Plaintiff, :

v. :

CHARLIE JAVICE, : New York, New York

Defendant. : April 4, 2023

-----: Conference

TRANSCRIPT AND STATUS CONFERENCE PROCEEDINGS
BEFORE THE HONORABLE BARBARA C. MOSES
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

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Transcript produced by transcription service

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1 THE DEPUTY CLERK: The court now calls the
2 United States of America versus Charlie Javice; case
3 number 23MJ2638.

4 Counsel, please make your appearances for
5 the record.

6 MS. McLEOD: Good afternoon, Your Honor.
7 Dina McLeod and Micah Fergenson for the government.

8 THE COURT: Ms. McLeod, Mr. Fergenson.
9 Good afternoon.

10 MS. SHAH: Good afternoon, Your Honor.
11 Maaren Shah from Quinn Emmanuel for defendant,
12 Charlie Javice. I'm here with my partner, JP
13 Kernisan. And my partner, Alex Spiro couldn't be
14 here today, but will be appearing in the case also.

15 Nice to see you again, your Honor.

16 THE COURT: Ms. Kernigan. Ms. Shah, I
17 don't usually see you in this courtroom; good
18 afternoon.

19 MS. SHAH: Good afternoon.

20 THE COURT: And Ms. Javice, am I
21 pronouncing your last name correctly?

22 THE DEFENDANT: Yes, ma'am.

23 THE COURT: You don't have to stand up.
24 You can all be seated. I am Magistrate Judge Moses.

25 For the record, not that I have any doubt

1 about this, please confirm that you speak and
2 understand English.

3 THE DEFENDANT: I do. Yes, ma'am.

4 THE COURT: May I have the date and time of
5 the defendant's arrest, please?

6 MS. McLEOD: Yes, Your Honor. The
7 defendant was arrested at approximately 6:20 p.m.
8 yesterday at Newark Liberty.

9 THE COURT: Thank you.

10 So, Ms. Javice, the purpose of our
11 proceeding this afternoon is to advise you of
12 certain rights that you have, to inform you of the
13 charges against you, to consider whether counsel
14 shall be appointed for you, and to decide under what
15 conditions, if any, you shall be released pending
16 trial.

17 I'm going to begin by explaining some of
18 your constitutional rights. You have the right to
19 remain silent. You are not required to make any
20 statements to law enforcement authorities, even if
21 you've already spoken to the authorities, you are
22 not required to make any further statements.
23 Anything that you do say can be used against you.
24 You have the right to be released, either
25 conditionally or unconditionally pending trial,

1 unless I determine that there are no conditions that
2 would reasonably assure your presence at future
3 court appearances and the safety of the community.

4 If you are a foreign national, you have the
5 right to request that a consular officer from your
6 country of origin be notified of your arrest. In
7 some cases, a treaty or other agreement may require
8 the U.S. government to give that notification,
9 whether you request it or not.

10 I am informed that you are a dual citizen
11 of the United States and France. I am further
12 informed that France is not a mandatory notification
13 nation. So that notification will not be made
14 automatically, but you may request that that
15 notification be given.

16 You have the right to be represented by an
17 attorney during all court proceedings, including
18 this one, and during any questioning by the
19 authorities. If you cannot afford an attorney, I
20 will appoint one today to represent you.

21 Ms. Shah, your presence here suggests to me
22 that there is not going to be an application for
23 appointed counsel; is that correct?

24 MS. SHAH: Correct, Your Honor.

25 THE COURT: So we will then move on. I

1 have been given a copy of the sealed complaint in
2 this matter, which I'm sure you've seen. I will
3 review it for you briefly. This is the document
4 that contains the criminal charges against you.

5 You are charged in Count 1 with conspiracy
6 to commit wire and bank fraud, in violation of 18
7 United States Code § 1349.

8 You are charged in Count 2 with wire fraud,
9 in violation of 18 United States Code §§ 1343 and 2.

10 You are charged in Count 3 with bank fraud,
11 in violation of 18 United States Code §§ 1344 and 2.

12 And you are charged in Count 4 with
13 securities fraud, in violation of Title 15, United
14 States Code, §§ 78j(b) and 78f(f), and also Title 17
15 of the Code of Federal Regulations, § 240.10(b)(5)
16 and Title 18, United States Code § 2.

17 Counsel, have you received a copy of the
18 complaint and had an opportunity to review it with
19 your client?

20 MS. SHAH: Yes, Your Honor.

21 THE COURT: And do you waive its detailed
22 public reading?

23 MS. SHAH: Yes, Your Honor.

24 THE COURT: Okay. Because you have been
25 charged by Complaint, Ms. Javice, you are entitled

1 to a preliminary hearing. At the preliminary
2 hearing, the government will have the burden of
3 establishing that there is probable cause to believe
4 that the crimes for which you are being charged were
5 committed and that you are the person who committed
6 them.

7 If you are in custody, you have a right to
8 that hearing within 14 days. If you're out of
9 custody, you have a right to that hearing within 21
10 days.

11 However, no preliminary hearing will be
12 held if before the date on which it is scheduled you
13 are indicted by a Grand Jury or an Information is
14 filed against you by the government. I'll set a
15 preliminary hearing date before we conclude our
16 proceedings this afternoon. But what I now wish to
17 turn to is the issue of bail, or to be more formal,
18 conditions of release.

19 Have counsel discussed this?

20 MS. McLEOD: Yes, Your Honor. And we have
21 a joint proposed bail package.

22 THE COURT: Excellent. Who would like to
23 present that to me?

24 MS. McLEOD: I will, Your Honor.

25 THE COURT: Go ahead.

1 MS. McLEOD: The parties propose a \$2
2 million personal recognizance bond to be signed by
3 two financially responsible persons, to be secured
4 by the defendant's property. And I can give you the
5 address. It's the residence on the --

6 THE COURT: This is real estate?

7 MS. McLEOD: It's real estate. It's a home
8 in Miami.

9 THE COURT: Do you want to put that on the
10 record or not?

11 MS. SHAH: I think we'd prefer not, if
12 that's all right, but I think Your Honor has it in
13 front of you in the Pretrial report.

14 THE COURT: Is it the same address which is
15 listed in the Pretrial report?

16 MS. McLEOD: Yes, it's the one on the first
17 page of the Pretrial report.

18 THE COURT: Fine. And that's the
19 defendant's personal residence?

20 MS. McLEOD: Correct.

21 THE COURT: All right. So there will be
22 then what type of security?

23 MS. McLEOD: It will be secured by that
24 property.

25 THE COURT: All right. And is there a

1 mortgage on that property?

2 MS. McLEOD: There is.

3 THE COURT: And you're satisfied that
4 there's enough equity in the property to give the
5 government adequate security?

6 MS. McLEOD: Yes.

7 THE COURT: Okay. Are you trying to say
8 something or you're just standing up to stretch your
9 legs?

10 MS. SHAH: I'm just standing up to show
11 respect to Your Honor. I wasn't sure if you'd need
12 me again.

13 THE COURT: No, you're fine.

14 MS. SHAH: Thank you.

15 THE COURT: You can be seated. Go ahead.

16 MS. McLEOD: Regular pretrial supervision.

17 THE COURT: As directed?

18 MS. McLEOD: As directed.

19 THE COURT: Okay. Any travel restrictions?

20 MS. McLEOD: Southern -- SDNY, EDNY and the
21 Southern District of Florida. And all points in
22 between for travel for court appearances.

23 THE COURT: And she'll be supervised out of
24 Florida?

25 MS. McLEOD: That's our expectation.

1 THE COURT: Okay.

2 MS. McLEOD: Surrender all travel documents
3 and no new applications.

4 THE COURT: It's my understanding that both
5 the U.S. and the French passport are in law
6 enforcement custody; is that right?

7 MS. McLEOD: That's correct, Your Honor.

8 MS. SHAH: That's correct, Your Honor.

9 THE COURT: Got it.

10 MS. McLEOD: A curfew to be enforced by
11 location monitoring.

12 THE COURT: Curfew? Okay. Tell me why.

13 MS. McLEOD: The curfew, Your Honor --

14 THE COURT: I mean, usually it's a
15 different kinds of crime that calls for curfew.

16 MS. McLEOD: Yes. So that was to
17 mitigate --

18 THE COURT: I see you, Ms. Shah. I'll call
19 on you in a moment.

20 MS. SHAH: Thank you.

21 MS. McLEOD: Parkinson was to mitigate the
22 risk of flight here based on the defendant's dual
23 nationality.

24 THE COURT: What, airplanes only run at
25 night?

1 MS. McLEOD: Well, the curfew is to set
2 some parameters around the location monitoring.

3 THE COURT: It's not a time curfew.

4 MS. McLEOD: Well, it is a time curfew.
5 The curfew is to set a particular time in which she
6 must be in the home, but it provides a framework for
7 Pretrial to check in and make sure that she's there.
8 It's a way to -- the location monitoring enforces
9 the curfew.

10 THE COURT: I'm not entirely sure I follow.
11 If it's, let's say, an hour from her home to the
12 nearest international airport, if she were going to
13 make a run for it, which we all trust and hope she's
14 not, couldn't she do it at nine in the morning just
15 as easily as at one in the morning?

16 MS. McLEOD: I mean, I think that's right,
17 Your Honor. I think typically Pretrial likes not to
18 have standalone monitoring, which is one of the
19 reasons we asked for it. And in addition to set a
20 framework for the location monitoring. If the Court
21 wants to place standalone location monitoring, it
22 can. It is recommended by Pretrial as one of the
23 conditions.

24 THE COURT: Well, I've jumped on your words
25 a couple of times already. Why don't you give me

1 your pitch.

2 MS. McLEOD: And this is agreed upon. So
3 curfew to be enforced by location monitoring.

4 THE COURT: With the hours to be set by
5 Pretrial?

6 MS. McLEOD: Hours to be set in conjunction
7 with Pretrial, likely in the Southern District of
8 Florida.

9 THE COURT: All right. And the form of
10 location monitoring would also be up to Pretrial, so
11 not necessarily an ankle bracelet?

12 MS. McLEOD: I think that's right, Your
13 Honor.

14 THE COURT: Okay. Got it.

15 MS. SHAH: Your Honor, if I may be heard on
16 that point.

17 THE COURT: Sure.

18 MS. SHAH: Thank you. And as Ms. McLeod
19 noted, this was agreed, but although, as Your Honor
20 knows, I don't appear very often in this courtroom
21 before you, we are also under the understanding that
22 that condition was imposed because it is, I gather,
23 a standard framework. We have had discussions with
24 opposing counsel about thinking it's not necessary.
25 We would certainly prefer to proceed without a

1 curfew. We don't think it's justified by the
2 circumstances here. So if Your Honor is so
3 inclined --

4 THE COURT: Well, let me lay out what your
5 realistic choices may be, now that I understand the
6 lay of the land, so to speak. Pretrial services is
7 interested in not having the defendant be out of
8 electronic contact with them for long enough to make
9 a run for it. Not to put too fine a point on it.

10 One way of doing that is to have location
11 monitoring in the home that records when she's home
12 and when she's not, but doesn't tell Pretrial
13 services where she is when she's not there because
14 she's not wearing an ankle bracelet.

15 You kind of need a curfew, as Ms. McLeod
16 explained, to put a framework on that because if she
17 isn't required to be in the home at a certain hour
18 every evening, then what does Pretrial services do
19 with the fact that she's not in the home at any
20 given moment?

21 The other way to keep tabs on her would be
22 to put her in an ankle bracelet without a curfew.
23 But now she's wearing a hunk of ankle around -- a
24 hunk of metal around her ankle wherever she goes.

25 Now, neither of these is ideal from the

1 defendant's perspective, but it may well be that the
2 curfew with no ankle bracelet is considered the
3 lesser of two evils. Do you want to have a moment
4 to discuss that?

5 MS. SHAH: I believe, Your Honor, that we
6 would agree that the curfew and no ankle bracelet is
7 the lesser of the two evils here. And I don't want
8 to speak for my colleague on the other side of the
9 table. My understanding is that what was being
10 proposed was an ankle bracelet and a curfew. If
11 that's not the case, then the curfew is fine.

12 THE COURT: Let me get clarification.

13 MS. SHAH: Thank you.

14 THE COURT: Ms. McLeod.

15 MS. McLEOD: I think we would be fine with
16 the curfew to be enforced by -- at the discretion of
17 Pretrial. Often they would choose not to do GPS at
18 that point, but that's something that I think is
19 within their province.

20 THE COURT: All right. So what I could
21 order, and what the Assistant U.S. Attorney is
22 suggesting is that I put the curfew in place and
23 leave it up to Pretrial services as to the exact
24 form of electronic monitoring. This does not
25 guarantee no ankle bracelet, but it gives you a

1 decent chance of no ankle bracelet.

2 Are both sides reasonably accepting of that
3 compromise?

4 MS. McLEOD: Yes, Your Honor.

5 MS. SHAH: That's fine, Your Honor.

6 THE COURT: All right. Let's go on.

7 MS. McLEOD: No contact -- this is going to
8 be a long one. No contact with -- and I'm going to
9 give a number of categories of people.

10 THE COURT: You're saying I should get
11 another piece of paper out here.

12 MS. McLEOD: I don't know how far you've
13 gotten, but probably yes, Your Honor.

14 And as a caveat for this, this is sort of a
15 no contact with witnesses rule, and I just want to
16 preface this with saying that we have confirmed with
17 counsel ahead of time that they are aware of the
18 identities of these people.

19 THE COURT: Because you knew I was going to
20 ask that question.

21 MS. McLEOD: I did. I was here for your
22 prior proceeding.

23 THE COURT: Okay.

24 MS. McLEOD: So the condition as agreed
25 would be no contact with the following categories of

1 people; former employees of Frank, which is the
2 company name, Frank.

3 THE COURT: Right.

4 MS. McLEOD: Current employees of JPMorgan
5 Chase.

6 THE COURT: That's a big company, JPMorgan
7 Chase.

8 MS. McLEOD: Yes. We've discussed this
9 with defense counsel. And I have one more caveat at
10 the end of that as well.

11 The person identified in the complaint as
12 CC1.

13 THE COURT: All right. CC1.

14 MS. McLEOD: The person identified in the
15 complaint as Data Scientist 1.

16 THE COURT: And, Ms. Shah, you know who
17 that is?

18 MS. SHAH: Yes, we do, Your Honor.

19 THE COURT: Okay.

20 MS. McLEOD: And the final caveat on that
21 is there should be no communications. There should
22 be no communications about -- my understanding is
23 some people in these categories, there may be a
24 prior personal relationship. And so the agreement
25 with the parties is that if there's a communication

1 in the personal capacity, it should not be about --
2 there should be no discussion of the substance of
3 the case outside the presence of counsel. Oh, I'm
4 sorry, I missed one category. My colleague is
5 reminding me there's one other category, which is
6 former investors in Frank and former members of the
7 board of Frank.

8 THE COURT: Former investors and board
9 members of Frank.

10 MS. McLEOD: Yes, Your Honor.

11 THE COURT: All right. Now to which of
12 these -- I have five categories here. One, former
13 employees of Frank; two, former investors and/or
14 board members of Frank; three, current employees of
15 JPMorgan Chase. I have to renumber my list here.
16 Four, CC1; Five, Data Scientist 1.

17 To which categories does your carve out
18 apply? When I say "your carve out," I mean your
19 explanation that social or personal contact is
20 acceptable so long as there's no discussion of
21 matters relevant to this case?

22 MS. McLEOD: Let me discuss for one second.

23 (Pause in proceedings)

24 MS. McLEOD: Okay. Your Honor, we are
25 ready to answer your question.

1 So the carve out as to communications
2 limited to substance of the case, only in the
3 presence of counsel. That applies to the following
4 categories, board members and investors and former
5 employees of Frank.

6 THE COURT: All right.

7 MS. McLEOD: And I'm sorry, we have one
8 additional caveat, which is that technically the
9 defendant's mother and her mother's boyfriend fall
10 in the investor category. But the parties have
11 agreed that those two individuals, the defendant's
12 mother and her mother's boyfriend, can be excluded
13 from the condition altogether in order that she can
14 speak to her mother about the case, for example.

15 THE COURT: So let me say it back to you.
16 With respect to former employees of Frank, the
17 condition is that the defendant is to have no
18 communication with them related to this case except
19 in the presence of counsel. With respect to current
20 employees of JPMorgan Chase, the condition is the
21 defendant is to have no contact with them except in
22 the presence of counsel. With respect to former
23 investors and/or board members of Frank, but not
24 counting mom or mom's boyfriend, the condition is
25 that the defendant is to have no substantive

1 communication with them concerning this case except
2 in the presence of counsel. Mom and Mom's boyfriend
3 are unrestricted. And with respect to the two
4 remaining individuals identified as CC1 and Data
5 Scientist 1, the defendant is to have no
6 communication with them on any topic other than in
7 the presence of counsel.

8 MS. McLEOD: That's correct, Your Honor.

9 THE COURT: Okay. Let's move on.

10 MS. McLEOD: Almost done. And the final
11 condition is what's listed as number six on the
12 Pretrial services report, which is the defendant is
13 not to open any new bank accounts or lines of credit
14 without the approval of pretrial. And then the
15 final note is that the defendant can be released on
16 her own signature, all other conditions to be met
17 within two weeks.

18 THE COURT: All right. So let me recite
19 for the record what I understand the agreed upon
20 conditions of release to be. And then I will ask
21 the defendant if I've gotten them correct insofar as
22 she has agreed to these.

23 The defendant will be released on a bond in
24 the amount of \$2 million, which will be cosigned by
25 two financially responsible persons acceptable to

1 the U.S. Attorney's Office in the Southern District
2 of New York, and will be secured by the defendant's
3 residence in Florida.

4 The defendant's travel will be restricted
5 to the Southern and Eastern Districts of New York,
6 the Southern District of Florida, and points in
7 between for purposes of travel only.

8 The defendant will surrender her passports,
9 which she's already done, as I understand it, and
10 will make no new application for passports or
11 similar travel documents.

12 The defendant will be supervised as
13 directed by Pretrial services. The defendant will
14 be subject to a curfew at her residence, the exact
15 parameters of which will be set by Pretrial
16 services, and the curfew will be enforced by
17 location monitoring at the discretion of Pretrial
18 services.

19 The defendant will open no new -- wait one
20 second -- will not open any new bank accounts or
21 lines of credit without the approval of Pretrial
22 services. And the defendant will be subject to the
23 following restrictions on contact with other
24 individuals potentially relevant to this case.

25 As to CC1, Data Scientist 1, and current

1 employees of JPMorgan Chase, the defendant will have
2 no contact with individuals in those categories
3 outside the presence of counsel.

4 With respect to former employees of Frank
5 and former investors and/or board members of Frank
6 who are not mom or mom's boyfriend, the defendant
7 will have no communication with these individuals
8 concerning this case or facts relevant to this case
9 outside the presence of counsel.

10 There are no communication restrictions
11 with regard to the defendant's mother or the
12 mother's boyfriend. The defendant will be released
13 today upon her own signature. All remaining
14 conditions must be met within two weeks.

15 Let me ask the government first, is there
16 anything you want to add or clarify there?

17 MS. McLEOD: I'm sorry, Your Honor.

18 THE COURT: You weren't listening.

19 MS. McLEOD: I just wasn't sure if I missed
20 the PRB being secured by the Miami address.

21 THE COURT: That was in there. All right.

22 Ms. Shah, anything to add or clarify?

23 MS. SHAH: Yes, Your Honor, we're good.

24 THE COURT: All right.

25 Ms. Javice, do you understand the terms of

1 your release as I have just summarized them for you?

2 MS. McLEOD: Yes, ma'am.

3 THE COURT: You may be seated. Let me warn
4 you, Ms. Javice, that if you fail to appear in court
5 when due or if you violate any of the conditions of
6 your release, whether you consider these conditions
7 important or unimportant, I can assure you that the
8 government tends to consider all of them important,
9 so if you were to violate them, a new warrant would
10 be issued for your arrest.

11 You and those who cosign the bond could be
12 liable each for up to the full amount of the bond,
13 in this case, \$2 million. Not a trivial sum. And
14 you could be charged with a separate crime known as
15 bail jumping.

16 In addition, if you were to commit a new
17 offense while you are on release in this case, then
18 in addition to whatever sentence you would
19 ordinarily get for the new offense, you can be
20 sentenced to an additional term of imprisonment
21 because you were out on bail when you committed it.
22 And that additional term of imprisonment could be up
23 to ten years if the new offense is a felony. Up to
24 one year, if the new offense is a misdemeanor. And
25 that additional term would be imposed and executed

1 after and on top of any other sentence of
2 imprisonment is completed.

3 Do you understand what I have told you?

4 THE DEFENDANT: Yes, ma'am.

5 THE COURT: Ms. Shah, when shall I set the
6 preliminary hearing?

7 MS. SHAH: I think 21 days works for us,
8 Your Honor.

9 THE COURT: 21 days. That takes us to
10 April the 25th. You sure you don't want to waive to
11 the 30th day?

12 MS. SHAH: I'm sorry?

13 THE COURT: I expected you to say you
14 wanted to waive to the 30th day. I assume you have
15 a lot to talk about with the government. Up to you.

16 MS. SHAH: I think we're good with the 21.

17 THE COURT: You're good with the 21. All
18 right. So I'll set the preliminary hearing for
19 April the 25th. April the 25th, 2023.

20 Anything further from the government?

21 MS. McLEOD: No, Your Honor. Thank you.

22 THE COURT: Anything from the defense?

23 MS. SHAH: No, thank you, Your Honor.

24 THE COURT: Thank you. We will be
25 adjourned.

C E R T I F I C A T E

I, Adrienne M. Mignano, certify that the foregoing transcript of proceedings in the case of United States of America v. Charlie Javice; Docket #23MJ2638 was prepared using digital transcription software and is a true and accurate record of the proceedings.

Signature Adrienne M. Mignano
ADRIENNE M. MIGNANO, RPR

Date: April 5, 2023

EXHIBIT G

From: Sarah Heaton Concannon
Sent: Friday, June 2, 2023 11:44 AM
To: Loss, Daniel; Moilanen, Lindsay S; Wintermyer, Wesley
Cc: Alex Spiro; Maaren Shah; JP Kernisan; Matthew Langley
Subject: RE: Activity in Case 1:23-cv-02795-LJL Securities and Exchange Commission v. Javice et al Order for Initial Pretrial Conference

Since you apparently misapprehended our discussions of yesterday and mischaracterized them in your email of last night, please provide us with a copy of your intended submission to the Court in advance of filing, so that we can correct any inaccuracies prior to filing and without need to raise them with the Court. To be clear, we object to any extension. We timely filed our document requests before the Government moved to stay, and unless and until that stay is granted, your responses are due 6/22. An extension is prejudicial to our client's defense of the SEC action.

Sarah Heaton Concannon
Partner and Co-Chair of SEC Enforcement Practice
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From: Loss, Daniel <LossD@SEC.GOV>
Sent: Friday, June 2, 2023 12:29 PM
To: Sarah Heaton Concannon <sarahconcannon@quinnemanuel.com>; Moilanen, Lindsay S <moilanenl@SEC.GOV>; Wintermyer, Wesley <WintermyerWe@SEC.GOV>
Cc: Alex Spiro <alexspiro@quinnemanuel.com>; Maaren Shah <maarensah@quinnemanuel.com>; JP Kernisan <jpkernisan@quinnemanuel.com>; Matthew Langley <matthewlangley@quinnemanuel.com>
Subject: RE: Activity in Case 1:23-cv-02795-LJL Securities and Exchange Commission v. Javice et al Order for Initial Pretrial Conference

[EXTERNAL EMAIL from lossd@sec.gov]

Hi Sarah,

This is not consistent with the information relayed in yesterday's discussion and we disagree with your characterizations. In any event, we plan to ask the Court for 21 days following a ruling on the Stay Motion and will describe our understanding of your client's position based on the email below.

Best,

Dan

From: Sarah Heaton Concannon <sarahconcannon@quinnemanuel.com>
Sent: Thursday, June 1, 2023 9:45 PM
To: Loss, Daniel <LossD@SEC.GOV>; Moilanen, Lindsay S <moilanenl@SEC.GOV>; Wintermyer, Wesley <WintermyerWe@SEC.GOV>
Cc: Alex Spiro <alexspiro@quinnemanuel.com>; Maaren Shah <maarenschah@quinnemanuel.com>; JP Kernisan <jpkernisan@quinnemanuel.com>; Matthew Langley <matthewlangley@quinnemanuel.com>
Subject: Re: Activity in Case 1:23-cv-02795-LJL Securities and Exchange Commission v. Javice et al Order for Initial Pretrial Conference

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That is incorrect. Our position is that when we first met and conferred, the SEC proposed an aggressive schedule and CMP, and indicated that you would begin rolling productions shortly after the then-planned status conference. We agreed to that aggressive CMP and served written discovery requests with a response date of 6/22, before the Government moved to intervene and stay. We also provided a protective order.

The SEC claims to take no position on the Government's motion. Accordingly, the SEC should timely respond to our written discovery requests, including through the immediate production of the investigative file. We proposed a reasonable compromise that is without prejudice and at nominal cost to your client.

Your failure to produce discovery is inconsistent with your professed neutrality on the stay and prejudicial to our client in the SEC's case, where you acknowledge you are sitting on third party productions that could be immediately produced and that we are confident contain exculpatory information critical to our client's defense of the SEC action.

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From: Loss, Daniel <LossD@SEC.GOV>
Sent: Thursday, June 1, 2023 8:48:55 PM
To: Sarah Heaton Concannon <sarahconcannon@quinnemanuel.com>; Moilanen, Lindsay S <moilanenl@SEC.GOV>; Wintermyer, Wesley <WintermyerWe@SEC.GOV>
Cc: Alex Spiro <alexspiro@quinnemanuel.com>; Maaren Shah <maarenschah@quinnemanuel.com>; JP Kernisan <jpkernisan@quinnemanuel.com>; Matthew Langley <matthewlangley@quinnemanuel.com>

Subject: Re: Activity in Case 1:23-cv-02795-LJL Securities and Exchange Commission v. Javice et al Order for Initial Pretrial Conference

[EXTERNAL EMAIL from lossd@sec.gov]

We can't agree to that. We plan to ask for 30 days following a ruling on the stay motion to respond to your requests (unless the stay is granted). We will note your client's objection. As I understand it, your client's position is based on (1) the view that there is no reason the documents shouldn't be produced by 6/22 absent a stay, (2) the importance of the documents to the Delaware case, and (3) the importance of the documents to the criminal case. Please let us know if our understanding of the reasons is incorrect so that we can accurately convey your client's position.

From: Sarah Heaton Concannon <sarahconcannon@quinnemanuel.com>

Sent: Thursday, June 1, 2023 8:06 PM

To: Loss, Daniel <LossD@SEC.GOV>; Moilanen, Lindsay S <moilanenl@SEC.GOV>; Wintermyer, Wesley <WintermyerWe@SEC.GOV>

Cc: Alex Spiro <alexspiro@quinnemanuel.com>; Maaren Shah <maarenschah@quinnemanuel.com>; JP Kernisan <jpkernisan@quinnemanuel.com>; Matthew Langley <matthewlangley@quinnemanuel.com>

Subject: RE: Activity in Case 1:23-cv-02795-LJL Securities and Exchange Commission v. Javice et al Order for Initial Pretrial Conference

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Dan and Lindsay,

Thanks for the call earlier today. Will the SEC agree to immediately produce third-party documents in its possession, custody, or control, regardless of whether the Court grants the USAO's motion to stay? The mere production of third-party documents already within the SEC's file cannot possibly impact the parallel criminal action, and the burdens of production are nominal.

If so, then we will agree that for (i) the SEC's written responses; and (ii) all other documents called for by our 5/22 requests, the SEC will have until 2 weeks after the Court's order on the stay motion to respond.

Best,
Sarah

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From: Loss, Daniel <LossD@SEC.GOV>
Sent: Wednesday, May 31, 2023 12:22 PM
To: Sarah Heaton Concannon <sarahconcannon@quinnemanuel.com>; Wintermyer, Wesley <WintermyerWe@SEC.GOV>; Alex Spiro <alexspiro@quinnemanuel.com>; Maaren Shah <maarensah@quinnemanuel.com>; JP Kernisan <jpkernisan@quinnemanuel.com>; Matthew Langley <matthewlangley@quinnemanuel.com>
Cc: Moilanen, Lindsay S <moilanenl@SEC.GOV>
Subject: RE: Activity in Case 1:23-cv-02795-LJL Securities and Exchange Commission v. Javice et al Order for Initial Pretrial Conference

[EXTERNAL EMAIL from lossd@sec.gov]

Great – thanks.

From: Sarah Heaton Concannon <sarahconcannon@quinnemanuel.com>
Sent: Wednesday, May 31, 2023 12:17 PM
To: Loss, Daniel <LossD@SEC.GOV>; Wintermyer, Wesley <WintermyerWe@SEC.GOV>; Alex Spiro <alexspiro@quinnemanuel.com>; Maaren Shah <maarensah@quinnemanuel.com>; JP Kernisan <jpkernisan@quinnemanuel.com>; Matthew Langley <matthewlangley@quinnemanuel.com>
Cc: Moilanen, Lindsay S <moilanenl@SEC.GOV>
Subject: Re: Activity in Case 1:23-cv-02795-LJL Securities and Exchange Commission v. Javice et al Order for Initial Pretrial Conference

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We're available then and will send a dial in.

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From: Loss, Daniel <LossD@SEC.GOV>
Sent: Wednesday, May 31, 2023 11:53:39 AM
To: Sarah Heaton Concannon <sarahconcannon@quinnemanuel.com>; Wintermyer, Wesley <WintermyerWe@SEC.GOV>; Alex Spiro <alexspiro@quinnemanuel.com>; Maaren Shah

<maarenschah@quinnemanuel.com>; JP Kernisan <jpkerisan@quinnemanuel.com>

Cc: Moilanen, Lindsay S <moilanenl@SEC.GOV>

Subject: RE: Activity in Case 1:23-cv-02795-LJL Securities and Exchange Commission v. Javice et al Order for Initial Pretrial Conference

[EXTERNAL EMAIL from lossd@sec.gov]

No problem, would 3:30 tomorrow work? I'm at 212-336-5571 if you want to give me a call then.

Thanks,
Dan

From: Sarah Heaton Concannon <sarahconcannon@quinnemanuel.com>

Sent: Wednesday, May 31, 2023 11:31 AM

To: Loss, Daniel <LossD@SEC.GOV>; Wintermyer, Wesley <WintermyerWe@SEC.GOV>; Alex Spiro <alexspiro@quinnemanuel.com>; Maaren Shah <maarenschah@quinnemanuel.com>; JP Kernisan <jpkerisan@quinnemanuel.com>

Cc: Moilanen, Lindsay S <moilanenl@SEC.GOV>

Subject: RE: Activity in Case 1:23-cv-02795-LJL Securities and Exchange Commission v. Javice et al Order for Initial Pretrial Conference

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Traveling and completely out of pocket today, but I'm available for a call tomorrow.

Sarah Heaton Concannon
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From: Loss, Daniel <LossD@SEC.GOV>

Sent: Wednesday, May 31, 2023 11:05 AM

To: Sarah Heaton Concannon <sarahconcannon@quinnemanuel.com>; Wintermyer, Wesley <WintermyerWe@SEC.GOV>; Alex Spiro <alexspiro@quinnemanuel.com>; Maaren Shah <maarenschah@quinnemanuel.com>; JP Kernisan <jpkerisan@quinnemanuel.com>

Cc: Moilanen, Lindsay S <moilanenl@SEC.GOV>

Subject: RE: Activity in Case 1:23-cv-02795-LJL Securities and Exchange Commission v. Javice et al Order for Initial Pretrial Conference

[EXTERNAL EMAIL from lossd@sec.gov]

Thanks, Sarah. Are you available for a quick call today? I'd like to see if we can try to resolve this without going to the Court.

From: Sarah Heaton Concannon <sarahconcannon@quinnemanuel.com>

Sent: Tuesday, May 30, 2023 8:19 PM

To: Loss, Daniel <LossD@SEC.GOV>; Wintermyer, Wesley <WintermyerWe@SEC.GOV>; Alex Spiro <alexspiro@quinnemanuel.com>; Maaren Shah <maarenschah@quinnemanuel.com>; JP Kernisan <jpkernisan@quinnemanuel.com>

Cc: Moilanen, Lindsay S <moilanenl@SEC.GOV>

Subject: Re: Activity in Case 1:23-cv-02795-LJL Securities and Exchange Commission v. Javice et al Order for Initial Pretrial Conference

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Absent a stay, we see no reason that written responses should not be served on their due date, 6/22, with the investigative file produced immediately thereafter.

Sarah Heaton Concannon

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From: Loss, Daniel <LossD@SEC.GOV>

Sent: Tuesday, May 30, 2023 7:21:11 PM

To: Sarah Heaton Concannon <sarahconcannon@quinnemanuel.com>; Wintermyer, Wesley <WintermyerWe@SEC.GOV>; Alex Spiro <alexspiro@quinnemanuel.com>; Maaren Shah <maarenschah@quinnemanuel.com>; JP Kernisan <jpkernisan@quinnemanuel.com>

Cc: Moilanen, Lindsay S <moilanenl@SEC.GOV>

Subject: Re: Activity in Case 1:23-cv-02795-LJL Securities and Exchange Commission v. Javice et al Order for Initial Pretrial Conference

[EXTERNAL EMAIL from lossd@sec.gov]

Thanks, Sarah. What is your view as to what the deadline should be in light of the stay motion?

From: Sarah Heaton Concannon <sarahconcannon@quinnemanuel.com>
Sent: Tuesday, May 30, 2023 7:14:06 PM
To: Loss, Daniel <LossD@SEC.GOV>; Wintermyer, Wesley <WintermyerWe@SEC.GOV>; Alex Spiro <alexspiro@quinnemanuel.com>; Maaren Shah <maarenschah@quinnemanuel.com>; JP Kernisan <jpkernisan@quinnemanuel.com>
Cc: Moilanen, Lindsay S <moilanenl@SEC.GOV>
Subject: Re: Activity in Case 1:23-cv-02795-LJL Securities and Exchange Commission v. Javice et al Order for Initial Pretrial Conference

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Thank you, Dan. Hope your weekend was nice as well. We cannot agree to the proposal below.

Best
Sarah

Sarah Heaton Concannon
Partner and Co-Chair of SEC Enforcement Practice
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From: Loss, Daniel <LossD@SEC.GOV>
Sent: Tuesday, May 30, 2023 6:06:19 PM
To: Sarah Heaton Concannon <sarahconcannon@quinnemanuel.com>; Wintermyer, Wesley <WintermyerWe@SEC.GOV>; Alex Spiro <alexspiro@quinnemanuel.com>; Maaren Shah <maarenschah@quinnemanuel.com>; JP Kernisan <jpkernisan@quinnemanuel.com>
Cc: Moilanen, Lindsay S <moilanenl@SEC.GOV>
Subject: RE: Activity in Case 1:23-cv-02795-LJL Securities and Exchange Commission v. Javice et al Order for Initial Pretrial Conference

[EXTERNAL EMAIL from lossd@sec.gov]

Sarah,

Hope you had a nice weekend. Do you agree that the time period for responding to your First Set of Requests shall be 30 days following the Court's ruling on the stay motion?

Thanks,
Dan

From: Sarah Heaton Concannon <sarahconcannon@quinnemanuel.com>
Sent: Thursday, May 25, 2023 1:36 PM
To: Loss, Daniel <LossD@SEC.GOV>; Wintermyer, Wesley <WintermyerWe@SEC.GOV>; Alex Spiro <alexspiro@quinnemanuel.com>; Maaren Shah <maarenschah@quinnemanuel.com>; JP Kernisan <jpkernisan@quinnemanuel.com>
Cc: Moilanen, Lindsay S <moilanenl@SEC.GOV>
Subject: Re: Activity in Case 1:23-cv-02795-LJL Securities and Exchange Commission v. Javice et al Order for Initial Pretrial Conference

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Yes, we agree that the CMP does not need to be submitted until one week before a to be rescheduled pretrial conference after the hearing on the Government's motion to intervene and stay.

We'll get the letter on file today.

Sarah Heaton Concannon
Partner and Co-Chair of SEC Enforcement Practice
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From: Loss, Daniel <LossD@SEC.GOV>
Sent: Thursday, May 25, 2023, 12:11 PM
To: Sarah Heaton Concannon <sarahconcannon@quinnemanuel.com>; Wintermyer, Wesley <WintermyerWe@SEC.GOV>; Alex Spiro <alexspiro@quinnemanuel.com>; Maaren Shah <maarenschah@quinnemanuel.com>; JP Kernisan <jpkernisan@quinnemanuel.com>
Cc: Moilanen, Lindsay S <moilanenl@SEC.GOV>
Subject: Re: Activity in Case 1:23-cv-02795-LJL Securities and Exchange Commission v. Javice et al Order for Initial Pretrial Conference

[EXTERNAL EMAIL from lossd@sec.gov]

Sarah,

In light of the Court's order adjourning the IPTC do you agree that the deadline for the proposed case management order is also adjourned? If so, no additional comments on your letter seeking an extension of the deadline to answer.

From: Loss, Daniel <LossD@SEC.GOV>

Sent: Thursday, May 25, 2023 6:55 AM

To: Sarah Heaton Concannon <sarahconcannon@quinnemanuel.com>; Wintermyer, Wesley <WintermyerWe@SEC.GOV>; Alex Spiro <alexspiro@quinnemanuel.com>; Maaren Shah <maarenschah@quinnemanuel.com>; JP Kernisan <jpkernisan@quinnemanuel.com>

Cc: Moilanen, Lindsay S <moilanenl@SEC.GOV>

Subject: Re: Activity in Case 1:23-cv-02795-LJL Securities and Exchange Commission v. Javice et al Order for Initial Pretrial Conference

While we agree to your request for an extension of time to answer, we may have some additional language we will ask you to include in the letter regarding our request, in light of the stay motion, and to the extent the Court grants your request for an extension of time to answer, to adjourn the initial pretrial conference and case management order deadline. Please stand by and we will get back to you shortly with proposed language.

From: Sarah Heaton Concannon <sarahconcannon@quinnemanuel.com>

Sent: Wednesday, May 24, 2023 9:12 PM

To: Loss, Daniel <LossD@SEC.GOV>; Wintermyer, Wesley <WintermyerWe@SEC.GOV>; Alex Spiro <alexspiro@quinnemanuel.com>; Maaren Shah <maarenschah@quinnemanuel.com>; JP Kernisan <jpkernisan@quinnemanuel.com>

Cc: Moilanen, Lindsay S <moilanenl@SEC.GOV>

Subject: Re: Activity in Case 1:23-cv-02795-LJL Securities and Exchange Commission v. Javice et al Order for Initial Pretrial Conference

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What is your position concerning immediate production of the investigative file and rolling productions of other materials responsive to our document requests? We can agree to postpone the status conference and CMP if the SEC will agree to proceed with production in the interim.

Assume you do not object to the letter to the Court, given Wes's email of earlier today, but please let us know if that's incorrect.

Thanks,
Sarah

Sarah Heaton Concannon
Partner and Co-Chair of SEC Enforcement Practice
Quinn Emanuel Urquhart & Sullivan, LLP

1300 I Street, NW, Suite 900
Washington, D.C. 20005

51 Madison Ave., 22nd Floor
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From: Loss, Daniel <LossD@SEC.GOV>

Sent: Wednesday, May 24, 2023 7:02:01 PM

To: Sarah Heaton Concannon <sarahconcannon@quinnemanuel.com>; Wintermyer, Wesley <WintermyerWe@SEC.GOV>; Alex Spiro <alexspiro@quinnemanuel.com>; Maaren Shah <maarensah@quinnemanuel.com>; JP Kernisan <jpkernisan@quinnemanuel.com>

Cc: Moilanen, Lindsay S <moilanenl@SEC.GOV>

Subject: Re: Activity in Case 1:23-cv-02795-LJL Securities and Exchange Commission v. Javice et al Order for Initial Pretrial Conference

[EXTERNAL EMAIL from lossd@sec.gov]

Sarah what are your thoughts on suggesting an adjournment of the deadline for the case management order and initial pretrial conference?

From: Sarah Heaton Concannon <sarahconcannon@quinnemanuel.com>

Sent: Wednesday, May 24, 2023 6:38:50 PM

To: Wintermyer, Wesley <WintermyerWe@SEC.GOV>; Loss, Daniel <LossD@SEC.GOV>; Alex Spiro <alexspiro@quinnemanuel.com>; Maaren Shah <maarensah@quinnemanuel.com>; JP Kernisan <jpkernisan@quinnemanuel.com>

Cc: Moilanen, Lindsay S <moilanenl@SEC.GOV>

Subject: RE: Activity in Case 1:23-cv-02795-LJL Securities and Exchange Commission v. Javice et al Order for Initial Pretrial Conference

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Per Judge Liman's local rules, all requests for extension of time are to be submitted by letter. Please let us know if you have any comments or concerns on the text of the letter below.

On behalf of our client, Charlie Javice, we respectfully submit this letter to request an extension of time for Ms. Javice to answer or otherwise respond to the Complaint in the above-referenced matter from June 5, 2023 until two weeks after this Court issues a decision on the Government's motion for an order authorizing intervention and staying discovery in this action until the conclusion of *United States v. Charlie Javice*, 23 Cr. 251 (AKH) [ECF Nos. 19-20].

We have conferred with Plaintiff U.S. Securities and Exchange Commission ("SEC") and the SEC consents to the relief sought herein. This is the first such request.

Thank you
Sarah

Sarah Heaton Concannon
Partner and Co-Chair of SEC Enforcement Practice
Quinn Emanuel Urquhart & Sullivan, LLP

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From: Wintermyer, Wesley <WintermyerWe@SEC.GOV>

Sent: Wednesday, May 24, 2023 4:54 PM

To: Sarah Heaton Concannon <sarahconcannon@quinnemanuel.com>; Loss, Daniel <LossD@SEC.GOV>; Alex Spiro <alexspiro@quinnemanuel.com>; Maaren Shah <maarensah@quinnemanuel.com>; JP Kernisan <jpkernisan@quinnemanuel.com>

Cc: Moilanen, Lindsay S <moilanenl@SEC.GOV>

Subject: RE: Activity in Case 1:23-cv-02795-LJL Securities and Exchange Commission v. Javice et al Order for Initial Pretrial Conference

[EXTERNAL EMAIL from wintermyerwe@sec.gov]

Dear Sarah:

In response to your request:

1. The SEC takes no position with regard to the stay of discovery requested by the Government; and
2. The SEC agrees to your proposed stipulation.

Many thanks,
Wes

Wesley Wintermyer

Counsel

Division of Enforcement | New York Regional Office

OFFICE +1 212 336 5462

MOBILE +1 646 954 6979

wintermyerwe@sec.gov



**U.S. Securities and
Exchange Commission**

From: Sarah Heaton Concannon <sarahconcannon@quinnemanuel.com>
Sent: Wednesday, May 24, 2023 4:27 PM
To: Loss, Daniel <LossD@SEC.GOV>; Alex Spiro <alexspiro@quinnemanuel.com>; Maaren Shah <maarensah@quinnemanuel.com>; JP Kernisan <jpkernisan@quinnemanuel.com>
Cc: Moilanen, Lindsay S <moilanenl@SEC.GOV>; Wintermyer, Wesley <WintermyerWe@SEC.GOV>
Subject: RE: Activity in Case 1:23-cv-02795-LJL Securities and Exchange Commission v. Javice et al Order for Initial Pretrial Conference

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Dan, Wes, and Lindsay:

We are in receipt of the Government's motion to intervene in this action and to stay discovery. Please let us know as soon as possible:

1. The SEC's position with regard to the stay of discovery requested by the Government;
2. Whether you will agree to stipulate to an extension of time for Ms. Javice to answer or otherwise respond to the Complaint until two weeks after the Court's decision on the Government's motion.

Thank you
Sarah

Sarah Heaton Concannon
Partner and Co-Chair of SEC Enforcement Practice
Quinn Emanuel Urquhart & Sullivan, LLP

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Washington, D.C. 20005

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From: Loss, Daniel <LossD@SEC.GOV>
Sent: Wednesday, May 24, 2023 10:38 AM
To: Sarah Heaton Concannon <sarahconcannon@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Maaren Shah <maarensah@quinnemanuel.com>; JP Kernisan <jpkernisan@quinnemanuel.com>
Cc: Moilanen, Lindsay S <moilanenl@SEC.GOV>; Wintermyer, Wesley <WintermyerWe@SEC.GOV>
Subject: RE: Activity in Case 1:23-cv-02795-LJL Securities and Exchange Commission v. Javice et al Order for Initial Pretrial Conference

[EXTERNAL EMAIL from lossd@sec.gov]

Got it – thanks very much.

From: Sarah Heaton Concannon <sarahconcannon@quinnemanuel.com>
Sent: Wednesday, May 24, 2023 10:33 AM
To: Loss, Daniel <LossD@SEC.GOV>; Alex Spiro <alexspiro@quinnemanuel.com>; Maaren Shah <maarensah@quinnemanuel.com>; JP Kernisan <jpkernisan@quinnemanuel.com>
Cc: Moilanen, Lindsay S <moilanenl@SEC.GOV>; Wintermyer, Wesley <WintermyerWe@SEC.GOV>
Subject: RE: Activity in Case 1:23-cv-02795-LJL Securities and Exchange Commission v. Javice et al Order for Initial Pretrial Conference

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There is no word version for (1). (We entered our edits into the PDF CMP draft you sent to us.) Attached is word version of (2).

Sarah Heaton Concannon
Partner and Co-Chair of SEC Enforcement Practice
Quinn Emanuel Urquhart & Sullivan, LLP

1300 I Street, NW, Suite 900
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From: Loss, Daniel <LossD@SEC.GOV>
Sent: Wednesday, May 24, 2023 10:30 AM
To: Sarah Heaton Concannon <sarahconcannon@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Maaren Shah <maarensah@quinnemanuel.com>; JP Kernisan <jpkernisan@quinnemanuel.com>
Cc: Moilanen, Lindsay S <moilanenl@SEC.GOV>; Wintermyer, Wesley <WintermyerWe@SEC.GOV>
Subject: RE: Activity in Case 1:23-cv-02795-LJL Securities and Exchange Commission v. Javice et al Order for Initial Pretrial Conference

[EXTERNAL EMAIL from lossd@sec.gov]

Can you please send word versions for items 1 & 2? Thank you.

From: Sarah Heaton Concannon <sarahconcannon@quinnemanuel.com>
Sent: Tuesday, May 23, 2023 5:20 PM
To: Loss, Daniel <LossD@SEC.GOV>; Alex Spiro <alexspiro@quinnemanuel.com>; Maaren Shah <maarensah@quinnemanuel.com>; JP Kernisan <jpkernisan@quinnemanuel.com>
Cc: Moilanen, Lindsay S <moilanenl@SEC.GOV>; Wintermyer, Wesley <WintermyerWe@SEC.GOV>

Subject: RE: Activity in Case 1:23-cv-02795-LJL Securities and Exchange Commission v. Javice et al Order for Initial Pretrial Conference

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Dan, Wes, and Lindsay,

Please find attached:

1. Our revisions to the proposed CMP (shown in green)
2. A proposed protective order in clean and with redlines against Judge Liman's standard protective order
3. Ms. Javice's first set of document requests (please let us know if you do not agree to service by email)

Best
Sarah

Sarah Heaton Concannon
Partner and Co-Chair of SEC Enforcement Practice
Quinn Emanuel Urquhart & Sullivan, LLP

1300 I Street, NW, Suite 900
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From: Loss, Daniel <LossD@SEC.GOV>

Sent: Friday, May 19, 2023 5:12 PM

To: JP Kernisan <jpknernisan@quinnemanuel.com>; Maaren Shah <maarenschah@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Jenny Braun <jennybraun@quinnemanuel.com>; Sarah Heaton Concannon <sarahconcannon@quinnemanuel.com>

Cc: Moilanen, Lindsay S <moilanenl@SEC.GOV>; Wintermyer, Wesley <WintermyerWe@SEC.GOV>

Subject: RE: Activity in Case 1:23-cv-02795-LJL Securities and Exchange Commission v. Javice et al Order for Initial Pretrial Conference

[EXTERNAL EMAIL from lossd@sec.gov]

Resending with JP's correct email address.

From: Loss, Daniel

Sent: Friday, May 19, 2023 5:10 PM

To: jpknernisan@quinnemanuel.com; maarenschah@quinnemanuel.com; alexspiro@quinnemanuel.com; jennybraun@quinnemanuel.com; sarahconcannon@quinnemanuel.com

Cc: Moilanen, Lindsay S <moilanenl@SEC.GOV>; Wintermyer, Wesley <WintermyerWe@SEC.GOV>

Subject: RE: Activity in Case 1:23-cv-02795-LJL Securities and Exchange Commission v. Javice et al Order for Initial Pretrial Conference

Following up on our call today, attached please find a draft Case Management Plan with the dates we discussed. Please let us know your thoughts and any proposals. Also, shall we set a follow up call for next Friday to discuss any remaining open issues?

Thanks, and have a nice weekend.

From: Wintermyer, Wesley

Sent: Tuesday, May 16, 2023 5:03 PM

To: JP Kernisan <jpkernisan@quinnemanuel.com>

Cc: Maaren Shah <maarenschah@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Jenny Braun <jennybraun@quinnemanuel.com>; Moilanen, Lindsay S <moilanenl@SEC.GOV>; Sarah Heaton Concannon <sarahconcannon@quinnemanuel.com>

Subject: RE: Activity in Case 1:23-cv-02795-LJL Securities and Exchange Commission v. Javice et al Order for Initial Pretrial Conference

It works for us. Thank you so much for the accommodation.

Best,
Wes

Wesley Wintermyer

Counsel

Division of Enforcement | New York Regional Office

OFFICE +1 212 336 5462

MOBILE +1 646 954 6979

wintermyerwe@sec.gov



**U.S. Securities and
Exchange Commission**

From: JP Kernisan <jpkernisan@quinnemanuel.com>

Sent: Tuesday, May 16, 2023 5:00 PM

To: Wintermyer, Wesley <WintermyerWe@SEC.GOV>

Cc: Maaren Shah <maarenschah@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Jenny Braun <jennybraun@quinnemanuel.com>; Moilanen, Lindsay S <moilanenl@SEC.GOV>; Sarah Heaton Concannon <sarahconcannon@quinnemanuel.com>

Subject: Re: Activity in Case 1:23-cv-02795-LJL Securities and Exchange Commission v. Javice et al Order for Initial Pretrial Conference

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Hi Wes - would Friday at 3 work? That works for those of us joining on our end.

JP Kernisan | *Partner*
Quinn Emanuel Urquhart & Sullivan, LLP

On May 16, 2023, at 4:43 PM, Wintermyer, Wesley <WintermyerWe@sec.gov> wrote:

[EXTERNAL EMAIL from wintermyerwe@sec.gov]

Hi JP – We were hoping that you might be able to move tomorrow’s call to Friday after 11:30. Please let us know if you have a time Friday afternoon that works.

Best,
Wes

Wesley Wintermyer

Counsel

Division of Enforcement | New York Regional Office

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MOBILE +1 646 954 6979

wintermyerwe@sec.gov



**U.S. Securities and
Exchange Commission**

From: Wintermyer, Wesley

Sent: Friday, May 12, 2023 2:23 PM

To: JP Kernisan <jpkernisan@quinnemanuel.com>; Maaren Shah <maarensah@quinnemanuel.com>;

Alex Spiro <alexspiro@quinnemanuel.com>; Jenny Braun <jennybraun@quinnemanuel.com>

Cc: Moilanen, Lindsay S <moilanenl@SEC.GOV>

Subject: RE: Activity in Case 1:23-cv-02795-LJL Securities and Exchange Commission v. Javice et al Order for Initial Pretrial Conference

Hi JP – That works for us. I will circulate a dial in.

Wes

Wesley Wintermyer

Counsel

Division of Enforcement | New York Regional Office

OFFICE +1 212 336 5462

MOBILE +1 646 954 6979

wintermyerwe@sec.gov



**U.S. Securities and
Exchange Commission**

From: JP Kernisan <jpkernisan@quinnemanuel.com>
Sent: Friday, May 12, 2023 2:21 PM
To: Wintermyer, Wesley <WintermyerWe@SEC.GOV>; Maaren Shah <maarenschah@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Jenny Braun <jennybraun@quinnemanuel.com>
Cc: Moilanen, Lindsay S <moilanenl@SEC.GOV>
Subject: RE: Activity in Case 1:23-cv-02795-LJL Securities and Exchange Commission v. Javice et al Order for Initial Pretrial Conference

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Hi Wes – are you available next Wednesday at 4?

From: Wintermyer, Wesley <WintermyerWe@SEC.GOV>
Sent: Friday, May 12, 2023 12:25 PM
To: JP Kernisan <jpkernisan@quinnemanuel.com>; Maaren Shah <maarenschah@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Jenny Braun <jennybraun@quinnemanuel.com>
Cc: Moilanen, Lindsay S <moilanenl@SEC.GOV>
Subject: FW: Activity in Case 1:23-cv-02795-LJL Securities and Exchange Commission v. Javice et al Order for Initial Pretrial Conference

[EXTERNAL EMAIL from wintermyerwe@sec.gov]

JP:

Please see below from Judge Liman. Can you please let us know your availability after Tuesday of next week for a call?

Many thanks,
Wes

Wesley Wintermyer

Counsel
Division of Enforcement | New York Regional Office

OFFICE +1 212 336 5462

MOBILE +1 646 954 6979

wintermyerwe@sec.gov



**U.S. Securities and
Exchange Commission**

From: NYSD_ECF_Pool@nysd.uscourts.gov <NYSD_ECF_Pool@nysd.uscourts.gov>

Sent: Friday, May 12, 2023 12:03 PM

To: CourtMail@nysd.uscourts.gov

Subject: Activity in Case 1:23-cv-02795-LJL Securities and Exchange Commission v. Javice et al Order for Initial Pretrial Conference

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Southern District of New York

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Case Name: Securities and Exchange Commission v. Javice et al

Case Number: [1:23-cv-02795-LJL](#)

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Document Number: [13](#)

Docket Text:

NOTICE OF INITIAL PRETRIAL CONFERENCE: It is hereby: **ORDERED** that counsel for all parties appear in-person for an Initial Pretrial Conference on June 7, 2023, at 10:00 a.m. in Courtroom 15C at the 500 Pearl Street Courthouse. IT IS FURTHER ORDERED that, by one week prior to the conference, the parties jointly submit to the Court a proposed Case Management Plan and Scheduling Order. A template is available at <https://www.nysd.uscourts.gov/hon-lewis-j-liman>. This document should be filed electronically on ECF, consistent with the Court's Individual Practices in Civil Cases, which are available on the same webpage. Parties should consult the Individual Practices for guidance on the matters to be discussed at the Initial Pretrial Conference and for the Court's rules with respect to communications with Chambers and other procedural matters. Counsel for Plaintiff is ordered to notify Defendants of this Notice. **SO ORDERED.** (Initial Conference set for 6/7/2023 at 10:00 AM in Courtroom 15C, 500 Pearl Street, New York, NY 10007 before Judge Lewis J. Liman.) (Signed by Judge Lewis J. Liman on 5/12/23) (yv)

1:23-cv-02795-LJL Notice has been electronically mailed to:

Nancy A Brown brownn@sec.gov

Antonia Marie Apps AppsA@sec.gov

Lindsay Senechal Moilanen moilanenl@sec.gov

Wesley Warren Wintermyer wintermyerwe@sec.gov

1:23-cv-02795-LJL Notice has been delivered by other means to:

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Electronic document Stamp:

[STAMP dcecfStamp_ID=1008691343 [Date=5/12/2023] [FileNumber=29493173-0] [418179b50975ef9092fbd97b10c21ac54dba3ecba4b666fd8f0c0adec1e2111b5903eedbbd22e6527f9f5403081a71272c963d3a4573c0c341f475272a60a99e]]